CIVIL RIGHTS AND JOB TRAINING

HEARING

BEFORE THE

SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

HEARING HELD IN LOS ANGELES, CA, NOVEMBER 22, 1985

Serial No. 99-73

Printed for the use of the Committee on Education and Labor

U.S. GOVERNMENT PRINTING OFFICE

56-999 O WASHINGTON : 1986

H341-44

COMMITTEE ON EDUCATION AND LABOR

AUGUSTUS F. HAWKINS, California, *Chairman*

WILLIAM D. FORD, Michigan
JOSEPH M. GAYDOS, Pennsylvania
WILLIAM (BILL) CLAY, Missouri
MARIO BIAGGI, New York
AUSTIN J. MURPHY, Pennsylvania
DALE E. KILDEE, Michigan
PAT WILLIAMS, Montana
MATTHEW G. MARTINEZ, California
MAJOR R. OWENS, New York
FREDERICK C. BOUCHER, Virginia
CHARLES A. HAYES, Illinois
CARL C. PERKINS, Kentucky
TERRY L. BRUCE, Illinois
STEPHEN J. SOLARZ, New York
MERVYN M. DYMALLY, California
DENNIS E. ECKART, Ohio
TIMOTHY J. PENNY, Minnesota
CHESTER G. ATKINS, Massachusetts

JAMES M. JEFFORDS, Vermont
WILLIAM F. GOODLING, Pennsylvania
E. THOMAS COLEMAN, Missouri
THOMAS E. PETRI, Wisconsin
MARGE ROUKEMA, New Jersey
STEVE GUNDERSON, Wisconsin
STEVE BARTLETT, Texas
ROD CHANDLER, Washington
THOMAS J. TAUKE, Iowa
JOHN R. McKERNAN, JR., Maine
RICHARD K. ARMEY, Texas
HARRIS W. FAWELL, Illinois
PAUL B. HENRY, Michigan

SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES

MATTHEW G. MARTINEZ, California, *Chairman*

PAT WILLIAMS, Montana
CHARLES A. HAYES, Illinois
CHESTER G. ATKINS, Massachusetts
AUGUSTUS F. HAWKINS, California
(Ex Officio)

STEVE GUNDERSON, Wisconsin
PAUL B. HENRY, Michigan
JAMES M. JEFFORDS, Vermont
(Ex Officio)

CONTENTS

	Page
Hearing held in Los Angeles, CA on November 22, 1985	1
Statement of:	
Bradley, Tom, mayor of Los Angeles, CA	4
Bustillos, Theresa, director, employment programs, Mexican American Legal Defense and Education Fund	33
Der, Henry, executive director, Chinese for Affirmative Action	61
Estrada, Carmen, counsel, Western Center on Law and Poverty	78
Kilbert, Gerald H., member of the California State Job Training Coordinating Council	27
Lee, Julia, trustee, local 99, Service Employees International Union	74
Quevedo, Frank J., chairman, Coalition of Southern California Personnel Organizations	91
Roberts, Tommy, Young Saints	101
Robertson, William H., executive secretary-treasurer of the Los Angeles County Federation of Labor, AFL-CIO	19
Sanders, J. Stanley, Esq., Sanders and Pickerson, attorneys at law, chairman of Los Angeles County United Way's Special Task Force on Youth Unemployment	67
Shiu, Patricia, first vice president, California Women Lawyers Alliance	53
Spears, Thomas, University of Southern California Minorities for Medicine	105
Ware, Emily, representative of Watts Branch of the NAACP	86
Wilson, Lionel J., mayor of Oakland, CA	11
Prepared statements, letters, supplemental materials, et cetera:	
Bradley, Tom, mayor, Los Angeles, CA, prepared statement of	9
Bustillos, Theresa Fay, national director of employment litigation, Mexican American Legal Defense and Educational Fund, prepared statement of	38
Estrada, Carmen A., Western Center on Law and Poverty, Los Angeles, CA, prepared statement of	89
Hawkins, Hon. Augustus F., a Representative in Congress from the State of California and Chairman, Committee on Education and Labor, prepared statement of	4
Kilbert, Gerald H., prepared statement on behalf of the California State Job Training Coordinating Council	30
Lee, Julia, Service Employees International Union, Los Angeles, CA prepared statement of	76
Martinez, Hon. Matthew G., a Representative in Congress from the State of California, prepared statement of	2
Quevedo, Frank J., prepared statement on behalf of the Coalition of Southern California Personnel Organizations	94
Robertson, William R., Los Angeles County Federation of Labor, AFL-CIO, prepared statement of	21
Sanders, J. Stanley, Esq., prepared statement of	69
Shiu, Patricia A., first vice president, California Women Lawyers, prepared statement of	57
Ware, Emily, prepared statement of	89
Wilson, Lionel J., mayor, Oakland, CA, prepared statement of	13

CIVIL RIGHTS AND JOB TRAINING

FRIDAY, NOVEMBER 22, 1985

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND LABOR,
SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES,
Los Angeles, CA.

The subcommittee met, pursuant to call, at 9:21 a.m., in the Mark Taper seminar room, California State Museum, 700 State Drive, Los Angeles, CA, Hon. Matthew G. Martinez (chairman), presiding.

Members present: Representatives Martinez and Hawkins.

Staff present: Eric P. Jensen, staff director; Paul Cano, assistant staff director; Genevieve Galbreath, chief clerk/staff assistant; Edmund Cooke, counsel for civil rights; Dr. Beth Buehlmann, Republican staff director for education; Carole Schanzer, legislative assistant; Teresita Schroeder, legislative assistant; Shirley Wilcher, associate counsel to the committee.

Mr. MARTINEZ. I wish to say good morning to all of you and welcome you all here. This hearing of the Employment Opportunities Subcommittee is being held in Los Angeles today to allow Chairman Hawkins, chairman of the Full Education and Labor Committee and I to receive testimony on the impact of the administration's policies on both civil rights enforcement and job training activities.

We are pleased to have before us two leading elected officials of the State of California, Mayor Bradley and Mayor Wilson, who will join us a little later to share their experiences in this area.

Since this administration has taken office, a wholesale attack has been made upon employers and workers of this country. The administration has systematically attacked traditional antidiscrimination measures, which courts of this country have supported and adopted over a period of 20 years. These regulations have been approved by Congress and upheld by the Supreme Court and all the previous Republican and Democratic administrations.

Suddenly, this administration has taken on the task of attacking States and cities across the Nation for their affirmative action plans. In addition, this administration is seeking to derail affirmative action by dismantling regulations in the private sector which is doing business worth $200 billion with Government.

The use of statistical measures and goals and timetables are absolutely essential to eradicate work force discrimination; and, moreover, employers have come to rely upon these tools of employment policy to insure themselves that they will not be sued by employees. These regulations are a set of guidelines commonly accepted now by most companies who want to insure good employment

practices. Any change in the Department of Labor's Executive Order 11246 would create untold numbers of future litigation and create confusion for employers and employees alike.

In the area of job training, this administration has really turned its back on the American employer and employee. Because of the administration's refusal to establish a sound foreign trade policy, distressing numbers of companies have been hit hard by foreign competition, resulting in perilously high unemployment.

The administration refuses to confront the necessity for strong national training policy for both adults and youth. They would prefer a subminimum wage. It is so pragmatic that Congress cannot understand the administration's reluctance. If dollars are invested in training workers, more individuals can come off the welfare rolls and contribute revenues to State and local governments.

The returns always exceed the amounts spent on worker training programs; Job Corps is a great example of this. Study after study have concluded that Job Corps returns $1.40 for every $1 spent on it. In addition, by focusing on the youth of this nation we can save greater numbers of productive lives and prepare them to perform useful activities for our society, rather than become liabilities.

I thank the mayor and the witnesses for attending today's hearing and we'll turn now to Chairman Hawkins for his opening remarks. Chairman Hawkins.

[The prepared statement of Hon. Matthew G. Martinez follows:]

PREPARED STATEMENT OF HON. MATTHEW G. MARTINEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Good morning, this hearing of the Employment Opportunities Subcommittee is being held in Los Angeles today to allow Chairman Hawkins of the full Education and Labor Committee and I to receive testimony on the impact of administration policies on both civil rights enforcement and job training activities.

We are very pleased to have before us two leading elected officials of the State of California, Mayor Bradley of Los Angeles and Mayor Wilson of Oakland, to share with us their experiences in this area.

Since this administration has taken office, a wholesale attack has been made upon the employers and workers of this country. The administration has systematically attacked traditional antidiscrimination measures which the courts of this country have adopted over a period of 20 years. These regulations have been approved by the Congress, upheld by the Supreme Court, and all the previous Republican and Democratic administration. Suddenly, this administration has taken on the task of attacking States and cities, across the nation, for their affirmative action plans.

In addition, this administration is seeking to derail affirmative action by dismantling regulations in the private sector doing $200 billion worth of business with the Government. The use of statistical measures, goals and timetable are absolutely essential to eradicate workforce discrimination moreover, employers have come to rely upon these tools of employment policy to ensure themselves that they will not be sued by employees. These tools are a set of guidelines commonly accepted now by companies who want to ensure good employment practices. Any change in the Department of Labors' Executive Order 11246, would create untold numbers of future litigation and create confusion for employers and employees alike.

In the area of job training, this administration has turned its back on the American employers and employee. Because of the administration's refusal to establish a sound foreign trade policy, distressing numbers of companies have been hard hit by foreign competition resulting in perilously high unemployment rates for American workers. The administration refuses to confront the necessity for a strong national training policy, for both adults and youth. It's so pragmantic, that Congress cannot understand the administration's reluctance: if dollars are invested in training workers, more individuals can come off the welfare rolls and contribute revenues to State

and local governments. The returns always exceed the amount spent on the worker training programs. In addition, by focusing on the youth of this Nation, we can save greater numbers of productive lives and prepare them to perform useful activities for society.

I thank the mayors and witnesses for attending today's hearing and will turn to Chairman Hawkins for his opening remarks.

Mr. HAWKINS. Well, thank you, Mr. Chairman. I will try to abbreviate my remarks and ask at this time that my written statement in its entirety be entered in the record.

Mr. MARTINEZ. With no objections, so ordered.

Mr. HAWKINS. May I just make two comments? I agree completely with the statement of the chairman of the subcommittee. In a recent Gallup Poll, conducted about three weeks ago, the people of this nation were asked, "What is the most important problem facing the nation?" Their reply, overwhelmingly, was "Unemployment."

Now this is far different from what one would conclude if one witnessed what is happening in Congress today, and throughout this country, in terms of programs relating to jobs and civil rights. The subject, therefore, at this hearing is one which deals with that most important problem facing the Nation.

It has certainly, I think, been verified by this subcommittee under your leadership, Mr. Chairman, that the only way to get a balanced budget is to have a balanced economy. And with the 13 million unemployed that we have been able to verify at the present, it is impossible, therefore, to have a balanced budget until we attack this problem.

And I think that you are to be commended on taking the leadership in doing this.

The reference that I would like to make is with respect to equal employment opportunity and, specifically, affirmative action. I have been told by reliable sources that the word has gone out from Washington, that the Government should ignore affirmative action and the need to enforce provisions relating to goals and timetables.

Later I will ask permission to make a motion to verify this, and if so, I think that it is subject, obviously, to further action by this subcommittee.

I applaud you and the subcommittee for being as firmly committed to the law as you are; and I certainly want to assure you that, as chairman of the full committee, I will make such resources and staff available to you to make sure that the law is upheld; that we assume our oversight responsibility to see that it is upheld; that we do whatever is necessary to hold accountable those public officials who now violate the law or refuse to enforce the law.

Thank you for this opportunity. I look forward, as you do, to hearing the witnesses that are before us, and particularly to the mayor of our city, a friend of mine, Mayor Tom Bradley, and also Mayor Lionel Wilson of Oakland. I am quite sure that these two outstanding and highly respected public officials will bring to this subcommittee the quality of testimony that we look forward to, as they have done so in the past.

Mr. MARTINEZ. Thank you very much, Chairman Hawkins. And I appreciate, also, the leadership that you have provided for us on the subcommittee, having been the chairman of this subcommittee

prior to my accepting that responsibility; and the leadership you have provided for the entire committee.

With that, we will return to Mayor Tom Bradley. It is always a pleasure to have you appear before us; and we look forward, with anticipation, to your testimony. Please, Mr. Bradley.

[The prepared statement of Hon. Augustus F. Hawkins follows:]

PREPARED STATEMENT OF HON. AUGUSTUS F. HAWKINS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

I want first to thank Chairman Martinez for convening this hearing today in Los Angeles to continue the Committee's important oversight of both equal employment opportunity law enforcement policies and practices, and our national job training and job creation policies. These issues are among the most critical of our time. They touch and concern the lives of rapidly increasing numbers of Americans.

It is, in a very real sense, tragic that we continue to confront resistance and indifference to the critical need for vigorous enforcement of our non-discrimination laws, for creative and innovative job creation incentives and for fiscally realistic and responsive job training programs. We confront these issues today, for the most part, *not* to examine how we can improve and build on past programs and growth, but rather to attempt to preserve the gains which we have struggled to achieve over the last ten to twenty years.

With respect to EEO law enforcement and its related policy of affirmative action, we see not only regression in our resolve to pursue the goals embodied in the Civil Rights Act of 1964, as well as in Executive Order 11246, but also a sad and irresponsible debate as to the need for and appropriateness of such laws and affirmative remedial policies. Notwithstanding that affirmative action has been demonstrably successful and has gained broad acceptance among the nation's employers, the current Administration not only refuses to enforce EEO law consistent with Court interpretation, but now proposes to abolish or modify Executive Order 11246 so as to make effective affirmative action unlawful.

We see plant shutdowns and relocations, resulting in the dislocation of hundreds of thousands of workers, treated with cavalier disregard. Indeed, despite a clear need to aid dislocated workers, this Administration continues to press for a 55-percent reduction in the Dislocated Worker Program. We confront an almost total absence of creative strategies for job creation, particularly with respect to youth unemployment and its particularly harsh impact on minority youth. For October, the over-all youth unemployment rate rose to 20 percent while the rate for minority youth is over twice that level. Today's unemployed youth is tomorrow's unemployed adult.

We suffer a totally unrealistic allocation of fiscal resources to programs, such as the Job Training Partnership Act, which are designed to address these severe problems. We confront all this, and more, as a consequence of the policies and actions of an Administration which remains unexplainably content to ignore the sad, harsh consequences of its policies for individual Americans which may well linger with us for generations to come.

We hold this hearing with the hope that the testimony which we will receive this morning will both aid our oversight activity, as well as expand the public's understanding of the substantive issues with which the Congress must now deal and the problems which the current Administration's ideology and policies create in dealing with them.

I welcome each witness and, again, thank Chairman Martinez for convening this important hearing.

STATEMENT OF TOM BRADLEY, MAYOR OF LOS ANGELES, CA

Mr. BRADLEY. Mr. Chairman, Congressman Hawkins, I thank you very much for coming to Los Angeles for the purpose of taking testimony on what I think is one of the most critical issues affecting this country. And we are pleased and proud that you two gentlemen and the members of your subcommittee take seriously this matter of protecting the rights of all Americans to equal opportunity to the right and the access to jobs that now seems so much under attack by many in this administration in Washington.

Unfortunately, though, some profess a belief in an open society. They, at the same time, are attempting to slam the door of opportunity on literally millions of people in this country.

There is no better example of this kind of bureaucratic door slamming than that of the Assistant Attorney General for Civil Rights, Mr. William Bradford Reynolds. Mr. Reynolds has orchestrated the department's unprecedented attempts to throw out the consent decrees that have been entered into by over 50 of the largest cities of the United States.

These consent decrees have been entered into with the cooperation, the support, indeed, with the urging of the Department of Justice in many cases. The fact is that they are working. We see no reason whatsoever to turn back the clock on that kind of progress which has been made.

In Los Angeles, for example, in our Fire Department and the Police Department, where the hiring goals were not meeting our expectations, nor in any way approaching the balance and terms of the work force of those two major departments of the city, as they are contrasted with the ethnic makeup of the city.

And so, after long and agonizing efforts to cure that problem, the city, with the cooperation and consent of those departments and their leadership; and with the urging and the support, indeed the pride of the Justice Department entered into consent decrees that would set goals and timetables for increasing the number of minorities hired on those two departments.

After several years, almost a decade of success in this area, Mr. Reynolds is attempting to throw out this kind of consent decree.

I sent him a letter saying that I simply would not consider it. We believe that we were on firm legal grounds; and we were not going to do anything, with regard to reversing the agreement that had been made, and the practices that are now in place.

I have been joined in this effort by many of the mayors of this country, and it is a bipartisan effort. One of the strongest voices has come from the mayor of Indianapolis, a former colleague of yours in the Congress.

This is the kind of effort that is being undertaken by Mr. Reynolds; and we are really concerned about it. He has attempted to use a case of the *Firefighters Local Union* v. *Stotts;* and has used his own interpretation of what that case meant in terms of voluntary consent decrees that had been entered into.

Since the *Stotts* decision every appeal court which has heard the issue has rejected the notion that *Stotts* in any way affected or applied to the affirmation action consent decrees that have been entered into in city after city across the Nation.

And so, Mr. Reynolds has no support for his theory; and, I am pleased to say that the cities of this country have firmly stood against this man.

I might add that I have included in my testimony—written testimony submitted to you—considerably more detail. But I wanted to condense it as much as I can.

The administration, just as Mr. Hawkins has stated, according to the information that I have been receiving, is already considering a roll back of the affirmative action guidelines that are a part of the national program now. It affects 15,000 companies in this country.

It has set up goals and timetables so that we are assured that minorities and women have a fair chance at some of the contracts and some of the jobs that are created thereby.

If the administration is permitted, either through the action of Mr. Meese or Mr. Reynolds or anybody else in that administration, to wipe out this progress which we have known over the last several years, millions are going to suffer. And so we are counting on you to insure that this does not happen. We are told that some action probably would have been taken already to do exactly that; except that they did not want to create the kind of fire storm that certainly would have developed just prior to the summit meeting. Now that the summit is over, I think that we have to keep our eyes open to be sure that these intentions of the administration and its members are not carried out.

We are concerned about an open society—an opportunity society. But it is a cruel hoax to suggest that we have such when people, in fact, are not given an equal access to jobs. At the same time this administration talks about an equal opportunity society, they are cutting funds for education and for job training programs that help advance the cause of an equal and open society.

This subcommittee has rightfully made job training one of its top priorities. Unfortunately, the current administration in Washington does not seem to share that enlightened viewpoint. Indeed, the administration has sought to totally dismantle such job training programs as the work incentive program for AFDC recipients, the Trade Adjustment Assistance Program for workers displaced by foreign competition, and the target jobs tax credit program.

At the same time, programs for economically disadvantaged youths, the Job Corps and the Summer Youth Program, would bear the brunt of reductions in the Department of Labor's budget.

The administration's proposed cuts are significant in and of themselves. But they are even more startling when we consider that even before this year job training programs have already been cut to the bone. In Los Angeles, for example, our Federal funds have been cut 75 percent over the last 4 years. We have already been forced to curtail significantly many highly successful job programs.

In one of our city's programs almost all of the enrollees were welfare recipients. After job training costs, being about $4,000 per person, almost all of these welfare recipients found gainful employment. A small investment in job training for such persons is repaid many times over in terms of the boost in the economy, the ability to provide for their families and the taxes that they pay.

To cut these programs, as the administration has proposed, is callous, unfair and, I might add, fiscally unsound. I join with this subcommittee in its effort to fight these kinds of cuts.

The apprenticeship training program has provided an opportunity for many who, for whatever reason, lacked job skills; and either through drop out or lack of adequate training are unprepared for many of the more technical jobs. The apprenticeship training program has given many an opportunity for this kind of training, and then to move into these slots and become productive and income earning citizens of our community.

One of the basic and fundamental problems leading to the high unemployment among youth, in my judgment, is the failure on the part of many of these young people to get the basic education they need, starting at the elementary school; because that is where they begin to fail. If they fail there, they are not going to make it through high school. And if they don't make it through high school, they are not going to be able to even read an application, to say nothing of filling out one. They are not going to be prepared to get a job or to hold one. And they make up the 40 to 50 percent of minority youth that are unemployed today, and have been for all of their adult lives.

This is the problem facing this Nation that, unless it is addressed, unless it is dealt with, I fear that we are going to have a serious problem on our hands. I hope that some effort is going to be made to encourage assistance for innovative educational training so that our young people can, in fact, make a success of their elementary school training, and then be able to move through junior and senior high school, enter the job market with the kind of skills that will permit them to succeed in life.

I know that this subcommittee is committed to these notions; and I thank you for coming to Los Angeles to give this community a chance to offer you some input as to how we feel we are being affected and what we think can be done to help.

Mr. MARTINEZ. Thank you very much, Mr. Bradley. Mayor, you started out actually in the Los Angeles Police Department; did you not?

Mr. BRADLEY. Yes, that is right.

Mr. MARTINEZ. And you can remember from your experiences that the time when you went in the department the lack of opportunity for people of a minority background. Could you elaborate a little bit how difficult it was then, and how that has dramatically changed now under affirmative action plans?

Mr. BRADLEY. When I entered the Police Department, there were less than 100 blacks in the department and fewer Hispanics. Every effort was made to discourage, all the way from the medical examinations, where we were told by many that there was an unwritten policy that only so many were going to get through and the rest were flunked out. I had just finished a track season at UCLA when I went and applied for the department, and they told me that I had a heart problem. I couldn't be accepted. And so when I told them, "How do you think I managed to make the best time of any of the candidates on the 300 yard dash out at the coliseum? How do you think I was able to get through a year of track activity if I had a heart problem." And so I demanded another examination by independent medical examiners who found there was no problem, of course, and I did get in.

Getting into the job was difficult enough, but rising through the ranks was even tougher. I made it the rank of lieutenant; but there was an unwritten policy at that time that no black was going to rise above the rank of lieutenant. They may have done me a favor, because I went on to law school, and got my law degree and practiced law, and the rest of my career has been pretty well documented.

That pattern, that practice of excluding minorities to that department continued for a number of years, and it was equally difficult in the Fire Department, if not more so.

All of that began to change, I would say, in the late 1960's and early 1970's. And then with the consent decree in the early 1970's it was completely opened up. And now we have minorities—one black now serving as deputy chief, commanders, captains—all over the place, both Hispanic and black.

The numbers of Hispanics has risen so dramatically that that consent decree isn't even needed any longer for them. We are not doing as well with black enrollees, but positive effort is under way and the department is totally committed to this idea—both Fire and Police.

So I think that we have changed attitudes, as well as changed the practices in those two departments. So the consent decree, in my judgment, was absolutely essential. And it is working.

Mr. MARTINEZ. That is my belief exactly; and I think that there is here the very essence of the proof of it all. I thank you, and at this time I would like to return to Chairman Hawkins.

Mr. HAWKINS. Let me just focus on one specific problem. The mayor has made reference to the summer jobs for youth. I know that is a rather important issue facing all cities. Mayor Wilson, who will later testify, has made reference to the same program.

Last week in the Joint Conference on the Labor, Health, and Human Services appropriations bill, an agreement was reached which, under the urging by the President, the Summer Jobs for Youth Program was cut again. Now even if it had been the same appropriation as last year, that itself would have been a cut because of inflation. But it was reduced to conform with the President's budget request of $664 million, as opposed to $824 million the year before This represents a cut of about $160 million. This adds up to at least another reduction of 160,000 jobs during the summer.

Now in view of the fact that young people at that time of the year will be out of school competing for jobs with those who are already unemployed, a reduction of this nature is rather substantial.

Against that backdrop, may I ask you what impact do you think this will have on the city of Los Angeles, or on the major cities faced already with a serious problem of youth unemployment during the summer; kids without jobs, out of school, and anxious, therefore, to get into trouble? Do you see any serious implications to the well-being of a city faced with such unbearable cuts?

Mr. BRADLEY. I do, indeed. And that is the reason why you find colleagues of mine throughout the country, such as Mayor Lionel Wilson from Oakland, and literally every mayor of any city of size in this country who each year fights to increase the level of that summer youth employment money, because we know that these idle youth on our streets are going to get into trouble; they are going to be a problem to us unless we provide them with some kind of job opportunities.

It is too difficult for them to fight the battle against the normal employment market, where adults are also competing, because of the scarcity of jobs. And the administration's only answer seems to

be to cut the money and then try to persuade people that we ought to have an elimination of the minimum wage for youth in order to make up for the need for employment for them.

I think that is a fallacious argument, it won't work, it doesn't work and I just simply hope that we can get the support of the members of Congress to realistically face the issue and understand that it is one of the best investments that they can make to provide the funds for summer youth employment, so that these young people will have some place that they can get a job.

I might add, Mr. Chairman, that the private sector in our city and other cities has done a good job of soliciting job opportunities and providing these kinds of jobs, working with the city administration and with the school district. But that is not enough. They simply cannot begin to fill that void. I think something like 15,000 jobs in this city alone is about all that we have been able to stir up in the private sector; and you know that won't fill the need.

Mr. HAWKINS. Well, you've already answered the other question that I was about to ask you as to whether or not the city could absorb this cut and provide the necessary jobs that are requested this summer. You, in effect, have said that you do not have the resources to continue to absorb these cuts.

Mr. BRADLEY. That is right. We don't know the extent of the cuts that are going to occur in our budget for the coming year. We do know that on the basis of the Fair Labor Standards Act, the compromise that you were able to work out for us, instead of losing $100 million, our loss will be somewhere, we hope we are wrong, $10 million. We are going to lose $25 million in revenue sharing money; and then next year $52 million in revenue sharing money.

With the Social Security requirements we are going to pay out an additional sum. You can see that our resources are being diminished year after year. We simply don't have the financial capability to provide the resources for funding the summer jobs for the youth of this city.

Mr. HAWKINS. Thank you, thank you.

Mr. MARTINEZ. Thank you, Mr. Chairman. On your last remark a smile came to my face, let me explain. I remember in the State of the Union message, the President said: "Cities were appreciating the tremendous economic recovery; because of this recovery, realizing a tremendous resurgence in revenues to their coffers. And they should share in the burden." He isn't dealing with reality, because that is not true of big cities or little cities. There still are very difficult times for them in how they can raise and generate revenues.

Your testimony will be entered into the record in its entirety; and I wish at this time to thank you very much for taking time from your very busy schedule to be with us. We appreciate it. We think it is very important; and thank you again.

Mr. BRADLEY. Thank you, Mr. Chairman.

[The prepared statement of Mayor Tom Bradley follows:]

PREPARED STATEMENT OF TOM BRADLEY, MAYOR, LOS ANGELES, CA

Chairman Martinez, and honorable members of the House Subcommittee on Employment Opportunities:

I thank you for the opportunity to address this Subcommittee on one of the most important issues facing America today: Keeping the doors of opportunity open to all

members of our society. Unfortunately, there are many today who profess belief in an open society while at the same time slamming shut the door of opportunity on millions who are striving—often against long odds—to succeed.

I. AFFIRMATIVE ACTION CONSENT DECREES

There is no better specimen of these bureaucratic door-slammers than William Bradford Reynolds, the Assistant Attorney General for Civil Rights. Mr. Reynolds has orchestrated the Justice Department's unprecedented attempts to undo affirmative consent decrees involving over fifty of America's largest cities. Los Angeles is one of those cities.

Mr. Reynolds acted to undermine these consent decrees despite the fact that they were entered into lawfully and voluntarily—and with the cooperation and active involvement of the Justice Department.

Mr. Reynolds acted even though the consent decrees are working well and enjoy the full and enthusiastic support of both cities and government employees alike.

Mr. Reynolds sought to undo the consent decrees despite the fact that his efforts will result in expensive, time-consuming litigation—litigation that will re-open old wounds that have long healed.

Most distressing of all, though, is the fact that Mr. Reynolds acted without any persuasive legal support whatsoever. Mr. Reynolds' position is based entirely on his personal interpretation of the United States Supreme Court's decision in *Firefighters Local Union No. 1875* v. *Stotts*, 104 S. Ct. 2576 (1984). Yet Mr. Reynolds' interpretation of *Stotts* is completely incorrect. In fact, the Reynolds interpretation has been rejected by each and every federal circuit court and federal district court that has considered the validity of affirmative action programs in the wake of the *Stotts* decision.

Simply put, there is no indication whatsoever that the *Stotts* Court intended to overrule—without so much as a specific mention—the established body of judicial precedent upholding affirmative action programs. The far more logical and reasonable interpretation—and the one that has been adopted by every federal court that has considered this question—is that *Stotts* does not apply to affirmative action programs such as the ones that are working successfully in Los Angeles and in cities across the country.

Moreover, the *Stotts* holding—no matter how broadly construed—is clearly limited to mandatory affirmative action programs ordered by a court over the objection of a party. In contrast, the Los Angeles affirmative action programs were the result of consent decrees that were voluntarily entered. What is more, the Los Angeles programs—like the other programs throughout the country—continue to enjoy the enthusiastic support of all parties to the consent decrees.

In sum, the Supreme Court's holding in *Stotts* offers no justification for Mr. Reynolds' insistence that Los Angeles and other cities abandon their successful, voluntary affirmative action plans. Despite Mr. Reynolds' ill-considered request, we in Los Angeles have no intention whatsoever of modifying those affirmative action plans.

I am certain that Mr. Reynolds' clearly erroneous interpretation will continue to be unanimously rejected by the courts. Nonetheless, at a time when critical civil rights laws cry out to be enforced, Mr. Reynolds is devoting the scarce resources of the Justice Department to undoing lawful and voluntary consent decrees that are working perfected with the support of all parties. No act could be more foolish or more counterproductive.

II. MINORITY HIRING GOALS AND TIMETABLES FOR FEDERAL CONTRACTORS

Even unanimous rejection by the federal courts has not deterred the zealous efforts of those who would undo the hard-won gains of the civil rights movement. The President is now being urged to abolish minority hiring goals and timetables for federal contractors. These goals have been in effect since 1965. They have received the support of Republican and Democratic administrations alike. And they have worked well: Study after study demonstrates that the federal program has greatly increased minority hiring by contractors. But cold, hard facts and two decades of bipartisan support are not enough to deter Mr. Reynolds and his cohorts. We have the obligation to resist these efforts to slam the door of opportunity on millions of Americans.

III. JOB TRAINING PROGRAMS

Finally, we must recognize that the notion of an "opportunity society" is nothing but a cruel hoax unless people are given an equal chance to compete. Yet, at the same time this Administration has been talking more—and doing less—about educa-

tion than any other administration in recent memory, the budget cutters have taken their axes to federal job training programs.

This Subcommittee has rightly made job training one of its top priorities. Unfortunately, the current Administration does not share the Chairman's enlightened viewpoint. Indeed, the Administration has sought to totally dismantle such job programs as the Work Incentive Program for AFDC recipients; the Trade Adjustment Assistance Program for workers displaced by foreign competition; and the Targeted Jobs Tax Credit Program.

At the same time, programs for economically disadvantaged youth—the Job Corps and the Summer Youth Program—would bear the brunt of reductions in the Department of Labor's budget.

The Administration's proposed cuts are significant in themselves. But they are even more startling when you consider that—even before this year—job training programs have been cut to the bone. In Los Angeles, for example, our federal job training funds have been cut seventy-five percent over the last four years. We have already been forced to curtail significantly many highly successful jobs programs. In one of our City's programs, almost half of the enrollees were welfare recipients. After job training that cost only $4,000 a person, almost all of these welfare recipients found gainful employment. The small investment in job training was repaid many times over in reduced welfare costs.

To cut back on those jobs programs, as the Administration has proposed to do, is callous, unfair, and fiscally unsound. I join with the Subcommittee in its continuing efforts to fight these cuts.

Mr. MARTINEZ. At this time we turn to our next witness, Mr. Wilson.

Mr. WILSON. Good morning Mr. Chairman and members of the subcommittee.

Mr. MARTINEZ. Why don't you proceed and give us your testimony?

STATEMENT OF LIONEL J. WILSON, MAYOR OF OAKLAND, CA

Mr. WILSON. Mr. Chairman and members of the Subcommittee on Employment Opportunities, it has been estimated that over 25,000 Oakland citizens are unemployed, with a minority youth unemployment rate approaching 50 percent. The root of the unemployment problem among Oakland residents is very complex and, unfortunately, there is no easy answer.

As you know, unfortunately many individuals, even in 1985, continue to be excluded from opportunities solely on the basis of their race, ethnicity, or disability—opportunities that are legally and properly theirs. It is because of continued de facto discriminatory practices that the city of Oakland supports in its present form Executive Order 11246, which sets forth particular goals and timetables for achieving affirmative action and equal opportunity.

In just 2 short years since the enactment of the Job Training Partnership Act over 1,000 Oakland residents have been placed in jobs. These positions are the direct result of the Training Program participants received in the classroom or on the job. Without JTPA many of these now employed citizens would now be unemployed.

I strongly believe that job training is a critical tool necessary if they expect to beat the odds and become employed. And, frankly, if these programs are to succeed the private sector must be intimately involved in every aspect of service delivery, from program design, funding, training, hiring.

One way of doing this, in my opinion, is to relax any restrictions against work experience in the private sector. For example, currently under present regulations the opportunity for private sector work experience is extremely limited. Regulations must be revised

so that private sector employers, small and big business alike, are given an opportunity to hire these applicants and evaluate them in the performance of their jobs.

Conversely, the individuals should prove themselves to earn their jobs, if you will, in a real work setting, not a make-work position. Such a plan lends itself to a cooperative venture between the public and private sector. And in these days of ever dwindling public funds and slashes to programs we must be creative and make good use of the resources around us, the public sector being an extremely important resource.

Such a plan also lends itself to providing an individual with a personal sense of dignity, which in many cases directly correlates the breaking the dependency on welfare as the sole source of income.

Needless to say, there are a multitude of training and employment strategies which could be implemented with the availability of proper resources. Some of these strategies might include, but not be limited to programs which provide incentives to youth to remain or reenroll in school, employer-needs based skills training, skills which are transferable to both the public and private sectors.

Unless these vital resources are made available, cities like Oakland, no matter how committed, how creative in their strategies, will never be able to overcome the phenomenal unemployment rates. In fact, we can be certain that the existing high rates of unemployment, particularly among minority youth, will continue to spiral upward. And if the past is any indication, we have seen evidence to accumulate over the last five resources that the resources to fund employment related programs have been, and will continue to be systematically reduced.

Without those resources you can look forward to increased underemployment, unemployment, and welfare dependency. We must give the need for employment and employment opportunities and training and education a higher priority.

Some 8 years ago, two of the most prestigious, conservative business magazines in the Nation came out with articles on this very subject. Even then, 8 years ago, talking about the serious problems created by the teeming thousands of unemployed youth in the urban cities of America. In discussing that problem one of them, I don't remember which—there was Business Week and U.S. News—one said, "This Nation is sitting on a powder keg around this problem." And the other said in more dramatic language, "Our Nation walks on the crumbling edge of disaster." And yet, 8 years down the line, we are still faced with the problem; only it has been multiplied and it increases to become aggravated, and it increases to become a more serious one.

Unfortunately, the problem has become so monstrous that with few exceptions neither the Democrats nor the Republicans have been willing to face up to this problem in any meaningful ways. And we are going to pay for it down the line. The time is inevitable that we are going to face a kind of situation where it is going to break loose, as was predicted by these publications; and it is redundant, but I think it ought to be emphasized that these were conservative business magazines 8 years ago talking about this problem in the kind of language that they use.

When the time comes that it breaks loose, unless something is done before, the riots we have seen in the last 2 years in England will be child's play compared to what would happen here in America because you face an entirely different situation. Over there the youth don't have the mobility that they have over here. They haven't had the history of activism that we have seen in the 1960's and 1970's. Over there they don't have access to weapons as they have over here. So by comparison it is frightening to even consider the potential that is there; and it is inevitable that it will happen unless something is done about it.

These thousands of young people who are people who are wandering around the streets with nothing but frustrations, lack of hope, no futures to look forward to—and what we have seen now in the last few years is they are getting into drugs more and more and more. And the drug problem is becoming one of the more serious problems in the United States today. And part of it is the result of the fact that these thousands of young people are on the streets. And when they can make more money than their parents can make working in the drug trade, it is inevitable that many of them will do just what they have done and get into the drug trade.

And it is creating the kind of problems in our cities that is extremely difficult to deal with. I spoke briefly with Congressman Hawkins this morning for a moment and mentioned the drug problem, and talked about a program that I initiated in Oakland a year ago in bringing together all the law enforcement agencies beginning at the local level all the way up to the United States, and was told this was the first time they were brought together in a formal way.

We started with law enforcement because we had a critical problem that we had to deal with. But then we expanded into support agencies, such as probation and paroles; and then the final step was to bring in the community.

It was a task force and now it is a council on drugs that is functioning and is being of some help. As a matter of fact, Mayor Feinstein 2 days ago announced that she is going to copy this program in the city of San Francisco, where they have the same kind of problem.

As Mayor Bradley indicates, the problem is the same here in Los Angeles. And if you go to any of the urban cities, you will find that the problem is there.

So I would respectfully urge this subcommittee to use its influence and do all that it can to stop the tide of reduction that has been going on, in terms of the resources that are so badly needed for unemployment in our cities; and particularly among our young people.

[The prepared statement of Lionel J. Wilson follows:]

PREPARED STATEMENT OF HON. LIONEL J. WILSON, MAYOR, OAKLAND, CA

Mr. Chairman, Members, Right now, in the City of Oakland, there are over 17,000 residents classified as unemployed.

This figure does not include these discouraged workers who have simply given up their job search or those youth who have never entered the labor force.

It has been estimated that over 25,000 Oakland citizens are unemployed. . .with a minority youth unemployment rate approaching 50%.

The root of the unemployment problem among Oakland residents is very complex and unfortunately, there is no easy answer.

Thousands of workers in Oakland and across the country workers with experience and skills, are being passed by because of rapidly changing technology.

Because their skills no longer reflect industries needs.

Because of low educational achievement, they are unable to take advantage of potential job opportunities.

As a consequence, their capacity to earn a living is being materially threatened.

And increasingly, we find that many entry-level positions are requiring academic preparation of at least high school level.

Yet a significant portion of the population is functioning at the ninth-grade level or below.

Shockingly, even those with high school diplomas, are not afforded opportunties because of bigotry and ignorance toward those who are different.

And as you know, unfortunately, many individuals, even in 1985, continue to be excluded from opportunities solely on the basis of their race, ethnicity, or disability. Opportunities that are legally theirs.

It is because of continued defacto discriminatory practices that the City of Oakland support in its present form Executive Order #11246 which sets forth particular goals and timetables for achieving affirmative action and equal opportunity.

In spite of the deeply rooted problems which are plaguing Oakland's unemployment rate we are actively addressing the issue through job training mechanisms.

I am proud to say that Oakland's job training programs have provided many of its residents with a simple opportunity.

An opportunity to be trained to get a job to earn a steady income to break the vicious cycle of welfare dependency in many instances and to become productive members of the community and society at large.

In just two short years since the enactment of the Job Training Partnership Act (JTPA) over 1,000 Oakland residents have been placed in jobs.

These position are as a direct result of the training program participants received in the classroom or on-the-job.

Without J.T.P.A., many of these now employed citizens would be unemployed.

The formula was simple: We provided them with skills training and the opportunity to put those newly acquired skills to us.

Our job training system is working for hundreds of workers who have been laid off, due to plant closures or "reductions-in-force."

Many of these workers had years of experience and simply weren't prepared for the trauma of being suddenly unemployed.

It was a tragic situation.

But job training in Oakland stepped in to give these workers the helping hand they needed preparation for their new jobs.

The workers received:

Financial and stress counseling; in addition to Vocational and/or on-the-job training services.

The transition from lay-off to training to re-employment was smooth.

As a result, the trauma of unemployment was minimized.

Our program was a solution not a panacea.

Without the training programs many of these talened and skilled workers would have been relegated to long-term unemployment.

This would not have been good for them the City or the State.

The youth represent yet another segment of Oakland's population, which has benefitted from our training programs.

As a direct result of the Summer Youth Employment and Training Program (S.Y.E.T.P), 2,400 youth became employed last summer.

Most of these youths returned to school in the fall.

Many, if not most, would have spent an idle summer instead they received valuable work experience.

Because of this program, the skills they've gained will mean that they may now compete, on equal footing, in the labor market.

I strongly believe that job training is a critical tool necessary if they expect to beat the odds and become employed.

And frankly If these programs are to succeed the private sector must be intimately involved in every aspect of service delivery from program design funding, training, hiring.

But what's in it for the public sector?

Why should they take on such a burden particularly when they can employ so called "employables".

They should do it because it can't be done without a cooperative effort on our part and theirs it's that simple.

But we've got to make it attractive for them we've got to make it easy for them to help us.

One way of doing this, in my opinion, is to relax any restrictions against work experience in the private sector.

For example, currently, under present regulations, the opportunity for private sector work experince is extremely limited.

Regulations must be revised so that private sector employers—small and big business alike—are given an opportunity to hire these applicants and evaluate them in the performance of their jobs.

Conversely, the individuals should be given the opportunity to prove themselves to earn their job, if you will in a real work setting, not a make work position.

Such a plan lends itself to a cooperative venture between the public and private sector.

And in these days of ever dwindling public funds and slashes to programs we must be be creative and make good use of the resources around us, the public sector being an extremely important resource.

Such a plan also lends itself to providing an individual with a personal sense of dignity which in many cases directly correlates to breaking a dependency on welfare as the sole source of income.

Another strategy Oakland is attempting to develop, is a comprehensive approach to training residents by linking both public and private sector employment programs.

With the assistance of the J.T.P.A., which I mentioned earlier and the Major's Summer Job Program, a job development effort in the private sector has become a year round program, not just a summer program.

This program is unique in that it is staffed almost entirely by volunteers yet another example of the utilization of resources.

We expect that an additional 200 jobs will be developed over the winter months, the time of year when unemployment rates traditionally remain high.

This would not have been possible without extremely strong relationships developed between the City of Oakland and our private sector.

As a matter of fact through this joint effort we have devised a "Hire Oakland First" program.

This new City policy links Oakland residents with jobs within the City of Oakland.

And through a coordinated effort between Oakland and the Oakland Chamber of Commerce, our private sector is opening its doors to the City's unemployed, as well.

Needless to say, there are a multitude of employment and training strategies which could be implemented with the availability of proper resources.

Some of these strategies might include, but not be limited to programs which provide:

Incentives for youth to remain or re-enroll in school;

Employer-needs-based skills training;

Skills which are transferrable to both the public and private sectors;

Incentives for the private sector employer—such as enterprise zone legislation.

Such measures encourage the relocation of businesses to cities while at the same time they provide incentives to businesses, while ensuring that employed residents in the enterprise zone are given preferential hiring opportunities.

Unless these vital resources are made available, cities like Oakland not matter how committed how creative in their strategies will never be able to overcome the phenomenal unemployment rates.

In fact, we can be certain that the existing high rates of unemployment will continue to spiral upward.

And if the past is any indication we have seen evidence continue to accumulate over the last five years that the resources to fund employment related programs have been and will continue to be systematically reduced.

Year-by-year, little-by-little, there's been a chipping away at the core of the formula for success in these program areas—money.

Either direct funds, incentives, in-kind services, it's all the same.

Without it, you can look forward to increased underemployement, unemployment, and welfare dependency.

We must give the need for employment and employment opportunities, through training and education a higher priority.

I respectfully urge you, as members of the United States Congress to make as stringent a commitment to our unemployed citizens, as you do our military defense.

I respectfully suggest that together, as national and local leaders, we have the resources and ability to put America back to work.

Thank you.

Mr. MARTINEZ. Thank you very much Mr. Wilson. You stirred some thoughts in my mind with your program. Are you familiar with the New York City Program that they call New York City Volunteer Corps?

Mr. WILSON. No, I am not.

Mr. MARTINEZ. At a hearing in New York we received testimony from the managers of the program and the representative of the mayor of New York; and they described the program to us. And in looking at that program it brought to mind to me some of the inherent problems in the cities in California; one that you mentioned, young people involved in drugs—out of frustration without anything else to do—getting into things that really lead them not to a successful job experience but into unsuccessful jail experiences. And from that point on it's even worse.

A lot of it has to do with young people; they just drop out of high school because they cannot keep up with the standards that are set there, and because there is no personalized tutoring or encouragement in their classrooms or their homes, we must make them realize that they need to get some degree of education if they are going to have any success in the real world of business and employment.

In that regard, I would like a reflection of how you would feel about this particular kind of a volunteer program. The program's participants volunteer but they are given a stipend, an amount of money that is not enough to allow them to live in luxury, but it does provide them with the necessities.

And the idea of it is the to encourage them to continue their education. If they put a period of time in—I think the minimum time of 1 year, then they are afforded a scholarship for their education. And if they put in 2 years it increases the amount of the scholarship. And they have found a tremendous success rate with the young people going through this and going back to school to further their education.

Have you thought of a program like that?

Mr. WILSON. Yes, as a matter of fact I have; and it is interesting to hear the program described, Mr. Chairman, by you because it is consistent with thinking that I have had on the subject. And I have been saying for some time that some kind of a volunteer program that would provide this type of resource for young people that would tie in, not only with training and further education but with a strong job development arm tied in with it—associated with it—so that they would have something to look forward to.

I think that it would be a tremendous source of help in terms of getting many of these youngsters off the streets, providing them with the backgrounds they need to get into gainful employment. And I am satisfied that given that kind of opportunity that they would take advantage of it.

I am being—they get after me at home because I walk the streets of the city so much and—almost daily—and I hardly ever go out without being accosted by young people on the street—teenagers.

They tell me, "Mr. Mayor, when are you going to get us a job?" They want to work. They want to be able—become a part of the

economic society wherein they can provide for themselves. And I think that kind of a program is one that would prove itself given the opportunity to demonstrate it.

Mr. MARTINEZ. It sounds to me that there are jobs out there. It is the lack of training and basic skills that these young people lack that keep them from getting those jobs.

Mr. WILSON. Yes, I believe that. One of the first things that I did when I became mayor—left the bench to become mayor—a little over 8 years ago, was to put together a voluntary program with the businesses in the city in which we set aside a certain amount of our funds that—for the purpose of providing training funds with private industry.

We utilized the local resources of the State employment office, but the major problem that we found was the one that you have just articulated, that in most cases—that in the majority of the cases—that the young people did not have a sufficient basic foundation with which to start on the job.

Mr. MARTINEZ. The statement that you made earlier about a powder kegs all we need to do is check the history of Los Angeles, the Watts riots and the riots in east Los Angeles were born of the frustration of no alternative. So I don't think anybody can challenge those statements you made. And with that I would like to turn to Chairman Hawkins.

Mr. HAWKINS. I recall that several years ago, when I was chairman of this subcommittee, we came to Oakland to discuss with the city bureaucrats the problem of unemployment and job training. I recall that you welcomed us, proved to be our lead off witness and stayed with us all day. I think that shows the dedication that you have, and we certainly appreciate your appearance today, although you obviously traveled more than 400 miles away.

You have, in effect, answered to some extent the question which I had raised with Mayor Bradley concerning the Summer Jobs for Youth. In the Labor—HHS appropriations conference, however, this was not the only cut. There was a 50-percent cut in the funding for dislocated workers. I see in your prepared statement you did refer to plant closings and so forth which I am sure you also experienced.

In view of the fact that we are not only cutting youth programs, which is a very serious problem, but the possibility of being employed is decreased because there are fewer and fewer jobs constantly to which not only the youth but even adults, many of whom are well trained—have been in industry for a long time. So that you have the accumulative impact of a great number of cuts.

If this continues then I assume this is what you refer to as creating the conditions for a catastrophic answer in some kind by the people who are being affected.

Sometimes we are asked, "Why is it that people don't seem to understand what is happening, and there is not more reaction at the present time to these cuts." When we have these hearings around the country, you don't see a tremendous number of people, unemployed, and so forth, who are coming into these hearings to express their dissatisfaction with these kinds of program cuts.

Can you, in any way, provide us with some degree of insight into why it is that the public does not seem to be reacting in a much

more aggressive manner, and not even in a more violent manner, against that which we know is happening in our country and the dangers which are implied in such continuing disregard of the human values in all of these problems?

Mr. WILSON. Well, Mr. Hawkins, I have often thought about that problem; and it is one that it is difficult to put one's finger on a satisfactory explanation. I think that as I look at our own community and I sometimes feel that the just sticking our fingers in the dike as we have done, we have tried to do some creative things, as you know, and some—tried to be innovative. And what we may have done is simply sort of kept the overflow from really hitting us.

With all the criticisms of the programs of the past, as you know, there were a few cities where there were abuses. But there were others, such as our city, in which we had some excellent programs—some excellent training programs. We had a skill center that is now functioning at about probably 10 percent of what it was able to function with 5 or 6 years ago, that was taking a hard core unemployed.

And many of these young people—not just the young people—but providing them with training in the basics, but also tying it in with job development programs. And so we sort of put a cap on—in a sense, I might say—for the potential for explosions that were there. And I suppose that some of those people are still hopeful that—still have some hope that things are going to change, that we are going to be able to get back into the development of some of those programs.

I met just 2 weeks ago with a young man who is around 40 who has been with the skills center almost since its inception. And I was one of the founders of the Oakland Skill Center—and was importuning me to do all that I could to try to find some resources to aid the skill center.

And we had other similar programs that we have lost as a result of cuts from year to year over the past 5 years that have been lost. We are not going to be able to hold our fingers in that dike much longer, I am afraid.

It is not easy. And more and more and more we are beginning to see reactions, strong reactions particularly from some of the young people in the community.

A part of this drug scene, as I have indicated, I think is a reaction of the way the young people have gotten into the drug scene and the tremendous amounts of money that are there for them in that. And unless we do return to, and expand upon, providing the resources for training and for job development for young people, I am afraid that the explosion will simply occur.

Mr. HAWKINS. I guess the hope is in the leadership that we have in Oakland and Los Angeles and some of the other cities, that some of you do have your fingers in the dike. And that many people look to you for the type of administrations that you have given us.

Again I wish to commend you for what you have done in the city of Oakland, and your constant cooperation with this subcommittee.

Mr. WILSON. Your leadership and the leadership of your committee has been one of the few bright lights that has been with us.

And I remember when the committee came to Oakland, also, and when I was the first witness testifying there. And I know it isn't easy for this committee to go on fighting for programs to try to provide those resources. It must be very frustrating talking about the frustrations of our young people who are unemployed. The frustrations of a committee such as this one, which has been in the forefront of a fight to do something positive must be very, very great also.

Mr. HAWKINS. Well, this committee feels better when it gets out of Washington and talks to the people.

Mr. WILSON. Thank you.

Mr. MARTINEZ. Thank you, Chairman Hawkins. You can imagine the frustration Mr. Hawkins has had to endure so many years—the glee he had when JTPA, his piece of legislation was signed by President Reagan in Los Angeles. The President then declared his tremendous support for it, but he had really fought it all the time and it was forced on him.

And he did not even invite Chairman Hawkins to be present at the signing.

Thank you very much, Mayor Wilson, for coming all this way and testifying for us. We appreciate it.

Mr. WILSON. Thank you, Mr. Chairman.

Mr. MARTINEZ. Incidentally, as you leave, I will say as we introduce our next witness, Mr. Bill Robertson, executive secretary and treasurer of Los Angeles Federation of Labor, is that he is now a member of a board in Los Angeles which is attempting to create that same program that I spoke of that is in New York.

Mr. WILSON. Very good.

Mr. MARTINEZ. Bill. Bill, it is great to see you again.

Mr. ROBERTSON. Thank you. Good morning, Mr. Chairman and members of the committee.

STATEMENT OF WILLIAM H. ROBERTSON, EXECUTIVE SECRETARY-TREASURER OF THE LOS ANGELES COUNTY FEDERATION OF LABOR, AFL-CIO

Mr. ROBERTSON. I would like to preface my statement by saying that I, too, want to share in commending this committee, and particularly Congressman Hawkins. Many of us recall the Congressman being a cosponsor with the late Vice President, Hubert Humphrey, of the Humprey-Hawkins bill which, at that time they were originally advocating 2 percent unemployment in the United States; and they had to fight to finally arrive at something which they reluctantly accepted, which scaled it at 4 percent to—hopefully to achieve a 4-percent-unemployment scale. And we thought that, at that time, was totally unrealistic.

We find now that the Feds claim the unemployment figure is roughly around 7 percent. We don't accept that. We think they are way out of line.

But it is rather ironic that, when we were thinking in terms of 2 percent unemployment, and now we are up—in my judgment—around a two-digit figure on unemployment, the realistic figures. And partly in answer to a question you raised, Congressman Haw-

kins, on the people's attitude on the unemployment figures, I think they are rather cavalier about it.

We find, those of us who are closely associated with the unemployment and unemployed workers that, regardless of how other people are doing, to anyone who is unemployed, it is a great depression to them.

And I also want to commend this committee for being tenacious despite what sometimes appear to be insurmountable odds. And what you are trying to do is that you hang in there. And we are going to be hanging in there with you.

The Feds figures on jobless workers in this country is 8.5 million; and those figures, of course, do not include the 1.1 million discouraged workers and the five—and five point million workers who want full time jobs who may be working part time now. And for black Americans, unemployment is at depression levels—15 percent unemployed, or one out of every seven in the work force. And among Hispanic Americans, the unemployment rate is 11.2 percent, or one out of every nine in the work force.

And since 1979, there have been 1.7 million jobs lost in manufacturing, including 220,000 jobs lost just in the first 6 months of 1985.

Plant closings continue to wipe out jobs in communities all over the United States. And a tidal wave of imports is eroding the U.S. industrial base.

Protections for long term workers have been seriously weakened by failure to continue extended unemployment benefits. Only 26 percent of jobless workers are now getting unemployment insurance benefits. What is the answer? Job operating programs should be established to provide employment for those who want to work but cannot find a job. And I would add that the vast majority of people in this country who are unemployed want work. They are not parasites, contrary to what some right-wing reactionaries talk about our welfare system and people not working. Not wanting to work is a myth.

And, I believe that if such a labor force could be created we could revitalize the Nation's decaying infrastructure, to meet the housing needs of low income families, and to respond to the public service requirements of our communities.

And to relieve high minority unemployment, equal opportunity laws have to be vigorously enforced, such effective training and retraining programs established, and special youth training programs developed. And an industrial policy would help the nation deal with the threats to basic industries and insure effective development of new industries.

The unemployment insurance system must be improved, especially in California where the Governor recently vetoed a bill which would raise weekly benefits for the jobless to a maximum of $266, from which now is a maximum of $166.

And the tragic nature of this is the fact that this State—we rank No. 40 in the amount of unemployment insurance that we give in the State of California.

And I might also offer that extended benefits should be restored for the long term unemployed. Jobless workers and their families should receive health care protection and mortgage and rent relief. In other nations, such as Sweden for example, displaced workers

and the jobless receive many support service. Those laid off get up to 90 percent of their regular salary, while unemployed, and for up to a year and a half.

And the Government will also pay for worker retraining and for relocation costs, when and if necessary, to make that individual employable again.

And under the Reagan administration, minorities and women have suffered a set back in the civil rights area. Affirmative action programs have been attacked which would guarantee these groups equal employment opportunities. And, for example, right now the President wants to see Executive Order 11246 removed or changed so that it will no longer be effective.

This law, which has been operative for nearly 20 years, has helped ethnic minorities in the fight against employment discrimination, especially at the Federal level.

And President Lyndon B. Johnson, when he initiated the Executive order in the 1960's as part of the effort in the war against poverty program, realized how key it was for the U.S. Government to open employment opportunities for the Nation's unemployed and underemployed minority groups, and also including women of course.

Such a move represents, we believe, a giant step backward in the fight against discrimination. The existing Executive order has worked well in opening job opportunities to members of minority groups who have been discriminated against for too many years.

Further, the present Administration in Washington has opposed the equal rights amendment, and comparable worth or pay equity laws for women. It is also a strong advocate of workfare programs which adversely impact women and minorities.

In the evaluation of the JTPA Program in California it is now conducted on what is called a performance basis. The agencies that do the training don't get paid unless they place their clients in jobs. Therefore, there is a strong tendency by these agencies to screen out those jobless who have the least chance of succeeding. Consequently, the hard core or difficult to place person is overlooked, never getting the help he or she so desperately needs to become employable. And this process is referred to as "creaming" or "skimming." As a result, minority women and men are underrepresented in the JTPA effort.

I have a rather comprehensive report here. In the interest of brevity, I am not going to continue, but I will certainly respond to any questions. And I hope I have made it very clear that the AFL-CIO strongly supports the efforts of this committee, and have consistently and will continue to do so.

[The prepared statement of William R. Robertson follows:]

PREPARED STATEMENT OF WILLIAM R. ROBERTSON, LOS ANGELES COUNTY FEDERATION OF LABOR, AFL-CIO

The number of jobless workers in this country is 8.5 million. And those figures don't include the 1.1 million "discouraged workers" and the 5.5 million part-time workers who want full-time jobs.

For black Americans, unemployed is at depression levels: 15 percent unemployed, or one out of every seven in the workforce. Among Hispanic Americans, the unemployment rate is 11.2 percent, or one out of every nine in the workforce.

Since 1979, there have been 1.7 million jobs lost in manufacturing, including 220,000 jobs lost just in the first six months of 1985. Plant closings continue to wipe out jobs in communities all over the U.S.A. A tidal wave of imports is eroding the U.S. industrial base.

Protections for long-term jobless workers have been seriously weakened by failure to continue extended unemployment compensation benefits. Only 26 percent of jobless workers are now getting unemployment insurance benefits.

What's the answer? Job-creating programs should be established to provide employment for those who want to work but cannot find a job. Such a labor source could be used to revitalize the nation's decaying infrastructure, to meet the housing needs of low-income families and to respond to the public service requirements of our communities. To relieve high minority unemployment, equal employment opportunity laws should be vigorously enforced, more effective training and retraining programs established and special youth training projects developed.

An "industrial policy" would help the nation deal with the threats to basic industries and assure effective development of new industries. The unemployment insurance system must be improved, especially in California, where the Governor recently vetoed a bill to raise weekly benefits to the jobless from a maximum of $166 to $266. (As a state we rank number 40 in the amount of unemployment insurance we give). Also extended benefits should be restored for the long-term unemployed. Jobless workers and their families should receive health care protection and mortgage and rent relief.

In other nations such as Sweden, for example, displaced workers and the jobless receive many support services. Those laid off get up to 90% of their regular salary while unemployed, for up to one year and a half. And the government will not only pay for worker retraining but for relocation costs, when and if necessary, to make the individual employable again.

Under the Reagan Administration minorities and women have suffered a setback in the civil rights area. "Affirmative Action" programs have been attacked . . . which would guarantee these groups equal employment opportunities. For instance, right now Reagan wants to see Executive Order 11246 removed or changed so that it is no longer effective. This law which has been operative for nearly 20 years has helped ethnic minorities in the fight against employment discrimination, especially at the federal level. President Lyndon B. Johnson initiated this Executive Order in the 1960s as part of his effort in the "War Against Poverty" program. He realized how key it was for the U.S. government to open employment opportunities for the nation's many unemployed and under-employed minority groups and women. Such a move represents a giant step backward in the fiaight against discrimination. The existing Executive Order has worked well in opening job opportunities to members of minority groups who have been discriminated against for too many years. Further, the present administration in Washington has opposed the Equal Rights Amendment and 'comparable worth' or pay equity laws for women. It is also a strong advocate of "workfare program," which adversely impact women and minorities.

JTPA Evaiuation: The JTPA program in California is now conducted on what is called a "performance basis." The agencies that do the training don't get paid unless they place their clients in jobs. Therefore, there is a strong tendency by these agencies to screen out those jobless who have the least chance of succeeding. Consequently, the real hard-core or difficult to place person is over looked: never getting the help he or she so desperately needs to become employable. This process is referred to as "creaming" or "skimming." As a result, minority women and men are under-represented in the JTPA effort.

Many of these people need more thorough support services while in JTPA. For example, women with children must receive adequate funding for child care while they re-train. Others lack extended unemployment insurance benefits to remain in the program. Those who are illiterate or do not speak English need ESL assistance (English as-a-Second Language).

In terms of minorities, for JTPA to be more effective, those agencies doing the screening and training should have bilingual personnel on staff: individuals sensitive to the ethnic culture and ways of the student population involved. More funding for individual counseling and support services should be made available.

Obviously, those displaced workers or other economically disadvantaged should be provided with remedial skills tutoring if they need it, to ensure their success in the JTPA program and in the workplace.

Right now 53% of the workforce in California is female, and the overall number of women entering the labor force each day continues to grow rapidly. However,

recent Bureau of Labor Statistics show that joblessness among women remains higher for them as a group than for men.

Bills pending before the Congress that could resolve the unemployment and dislocated worker problems include H.R. 670 by Hawkins (D-Ca.). This bill would provide employment opportunities to long-term unemployed individuals (especially in high-unemployment area) through grants to state and local governments for labor costs associated with: repair, maintenance or rehabilitation of essential public facilities: and for conservation and improvement of public lands.

Also H.R. 671 by Hawkins. This bill would provide employment opportunities for economically disadvantaged youth who agree to resume or maintain their education. This bill ties a job to continuing education in order to attempt to deal with the drastic number of dropout students. It is estimated that over 1 million youths annually either drop out of school or rarely attend classes. (Youth unemployment in 1984 averaged 18.8% more than 2½ times the rate for the total civilian labor force; for minority youth the rate in December of 1984 was 42.1 percent).

We in organized labor, however, are opposed to legislation which would allow for a subminimum wage to combat teen jobelessness. Such a law in our opinion would encourage employers to lay off adults to hire teens, as a source of cheap labor. We think the minimum wage of $3.35 an hour should be increased to $4.14 to compensate for inflation—not decreased as the Reagan Administration would like to see done.

Mr. MARTINEZ. Bill, your complete statement will be entered into the record in its entirety. But, you know, that one last statement you were making about the "creaming", is something that really concerns me. I always wonder how do you determine who is really hard to place.

You know, there has got to be some just decision made by the people that qualify the person. More than likely it is absolutely true that in order to get paid for the training you are going to do you are going to have to place that person.

When I really look at a person, there is no guarantee that you can say, "This person is going to succeed, and we are going to be able to place them" because they can fool me. By the same token, you can get fooled when you deny somebody. How could we go about making sure that you serve those most in need?

Mr. ROBERTSON. Yeah. I share your concern for the selective process. I don't know the answer to that. But my point, Congressman, was that we shouldn't give up hope on anyone because certain people don't have certain education skills for whatever reason—lack of a cultural background in the home. And I have been saying for 20 years that our educational system in its—would be at least a 20-year process to try to take those kids before they entered school, and provide the education background and make up for the lack of cultural experiences in the home. So that when those kids start school, they don't start a year or two behind and never catch up. And that is part of our problem.

I don't want to belabor this but I think in trying to respond to your question, I think we should do everything possible And I know there is no perfection in this world and never will be. But we should try to provide help for everybody who is anxious to work.

I know I can't satisfy your question, but that is a deep feeling on my part.

Mr. MARTINEZ. I just feel that when we develop programs that have that qualifier of job performance some people are going to lose out. Maybe they are bad at taking tests. Maybe, like you say, they don't have good basic skills. That does not mean that they are not trainable for certain kinds of jobs.

There are people who do an excellent job where it requires manual dexterity or some artistic skill, havever many for some reason are not permitted to take full advantage of all our basic educational programs. So they go out, go into life. We graduate an awful lot of illiterates.

Maybe I can describe what I am saying by a pointed story.

There was a young man who had a tremendous talent for music. He wrote and composed music. He made arrangements for the group he had. His group was in tremendous demand. That individual was not incapable of learning; he learned that music. However, he graduated from high school unable to read the most simple of documents.

He had a skill, so he made a living by utilizing his skill. But if he had to take one of these tests to see if he could have been trained for something, he would have flunked.

Mr. ROBERTSON. I would agree with you. And I would like to think that just about everyone has some untapped talents; and we should explore and try to do everything possible to surface with those talents so we can have people—everybody—where it is possible to be part of a meaningful society.

Mr. MARTINEZ. I think what we are going to have to start trying to do is—use all the resources we have and—such as the private industry council.

We don't do enough of that. And we design these programs to try to take care of it; but I don't think they are extensive enough. And part of the problem is that it is hard to try to convince people that we, as a government, should make investments in people because it will return to us—like an investment in our society. Those young people come in as their avenue of last resource, and they become successful people and contribute back to the system $1.40 for every $1 that is invested in them.

So I think we can do it. We have just got to find a way.

Mr. ROBERTSON. Incidentally, I am a product of the Civilian Conservation Corps as a student in high school; and then I had to go to work. And we are adopting a similar program in the city of Los Angeles. There is already one in place in San Francisco.

And, in addition to that, for the last 3 years, our Los Angeles County Federation of Labor was a catalyst in the formation of the Business-Labor Council. But that is just a band-aid approach to the whole problem. But we are trying to do what we can.

Mr. MARTINEZ. Very good. Chairman Hawkins.

Mr. HAWKINS. Bill, we were very much concerned with your reference to the JTPA Program and the performance basis on which it operates. The bill originated in this subcommittee, but as we originally drafted the bill it did contain the job creation component that you referred to. However, if you will recall, this was in the winter of 1981.

Earlier in the spring of that year the President had abolished the CETA Program. So there was no job creation program at all. So at the very beginning we were operating under a problem that, unless we got something through, that we wouldn't have anything; which obviously was contrived by the administration.

Realizing that, therefore, we had to make a concession in order to get a training program through the Congress. What changes

would you suggest should be made in the Job Training Partnership Act at the current time to make sure that the original intent is carried out—that is, to train the economically disadvantaged to do those jobs that do have some credibility to them—some future to them?

And do you, in your experience, feel that the jobs that are now being produced even by those who are supposedly job ready, are the types of jobs that will offer some future hope for those who are being trained? We find it very difficult to monitor the program because the Department of Labor doesn't even keep statistics on it. So we can only deal with it on an individual basis of asking individuals what their individual experience actually is. But it would seem that the administration is not going to support any job creation program.

Now, short of that—in view of that fact that we aren't going to get a job creation program through—are there any other changes that you might suggest to deal with this problem?

Mr. ROBERTSON. First of all, Congressman, when I focused in on some of the flaws with the program, it was certainly no criticism of those who designed the program because you were exactly right.

Mr. HAWKINS. We understood that.

Mr. ROBERTSON. You wanted some type of vehicle out there; and we consistently commended you for that. There are no simple answers, you know as well as I do. And I go back to what you and Senator Humphrey originally came up with in your concept. The answer to our problems is something approaching full employment. Regardless of how creative we are, if the jobs out there are not available—if there isn't enough work for the people in this country—there is no way we are going to correct the problem.

And there are, of course, a lot of ramifications to this. And I can't begin to answer them. But I think we need a government and administration in this country who has compassion for people to make every effort to work out viable programs.

Government—you have heard this scores of times—government is the people; and the people are entitled to an opportunity to work. I can't answer your question how we can make these improvements without an administration who we can work with and who has the same goal in mind—and that is to provide employment for all of those who are willing and able to work.

Mr. HAWKINS. We did anticipate that the partnership which would be formed under the act, would be one in which the local public officials would have an equal voice with the private sector; and that the private industry councils which would be created would have representation both from the elected officials and from the business people who would provide the jobs.

Now, under the private sector phase of it, we did assume that labor itself would be involved in it. To what extent has labor been involved? To what extent has the community been involved? To what extent have the elected officials supervised or monitored the program so that the program would not end up being controlled by a few individuals who are not concerned about the unemployed, who have no compassion for them, but who are only looking at the program to get the Federal bucks.

And to employ those individuals they prefer to see employed in the type of jobs—many types of jobs have no great future ahead of them—in the secondary labor market.

I know, Congressman Martinez, that you and I can at least relate to what I am going to give as a classic example of how I feel that Government, business, and labor can work out problems.

Prior to World War II, this Nation was faced with impending war. We were totally unprepared for it. But under President Franklin Delano Roosevelt, who formed the War Board with Government, business, and labor—and they, because we were threatened—and everybody recognized the threat—our feet were really to the fire—we eventually became the arsenal of democracy.

It worked. And it can work if we have the same dedication to get the job done. And I submit, our feet are to the fire in this country. We are losing too much of our industry to multinationals who are going overseas exploiting cheap foreign labor. And we have to stop it.

The American worker is at least as productive as any worker in the world. Other countries subsidize their industries. Japan certainly does. And we have the products coming back here competing in our marketplace.

The problem is awesome, but we need a coordinated effort and we certainly need the involvement in the leadership from government and we are not getting it now.

Mr. HAWKINS. Bill, I think it would be of value to us if, in your experience, you have seen this partnership operating in that manner. Has it been taken over by certain few individuals who dominate the policies, and who are responsible for the ways the program operates?

Mr. ROBERTSON. Unfortunately, people have their own parochial interest; and we are constantly confronted with that type of problem.

Mr. HAWKINS. My time is up. I certainly appreciate your candor. Thank you.

Mr. MARTINEZ. Thank you very much, Bill. It was a pleasure.

Mr. ROBERTSON. It was a pleasure.

Mr. TOMMY ROBERTS. I have a very deep concern. I want to thank you, Congressman, for welcoming me to your office when I went to Washington. And I want to thank Mr. Robertson for giving the Young Saints a plaque for communicating with and training young people in the community.

But I keep hearing the same thing over—wherever I go. If I am a little emotional, do we have to have another riot to get somebody's attention. Do the young people and the gangs have to start killing to get somebody's attention.

Mr. MARTINEZ. Please, sir. We do have panels that have been arranged to have testimony given here; and we are proceeding to hear those panels.

I understand your concern and we all share in that concern.

Mr. HAWKINS. I would recommend that the gentleman be given an opportunity to speak. I am fully aware of his concern. And I think he can make a contribution to this hearing, so I would hope that sometime today we can fit him in our schedule.

Mr. MARTINEZ. Fine. Can we have your name?

Mr. ROBERTS. Tommy Roberts from the Young Saints.

Mr. MARTINEZ. Mr. Roberts, when we have finished with the panels that are scheduled—we will then take time to hear your testimony. I know that you want to express a concern, and we would be more than happy to hear it.

With that we will hear our next panel which consists of Gerald Kilbert, who represents Governor Deukmejian, he is a member of the California State Job Training Coordinating Council; Ms. Theresa Bustillos, director of employment programs, Mexican American legal defense and education fund; Mr. Henry Der, executive director of the Chinese for Affirmative Action; Mr. Raymond Johnson, Los Angeles chapter of the NAACP; Ms. Patricia Shiu, first vice president, California Women Lawyers Alliance.

Why don't we start with Mr. Kilbert.

STATEMENT OF GERALD H. KILBERT, MEMBER OF THE CALIFORNIA STATE JOB TRAINING COORDINATING COUNCIL

Mr. KILBERT. Thank you. Chairman Hawkins, and Congressman Martinez, I am pleased to be here today. I am representing the State Job Training Coordinating Council, which is the recommending body to our Governor, Governor Deukmejian; and I serve on that council as the designee of superintendent of public instruction, Dr. Bill Honig.

We—and the State Job Training Coordinating Council since our inception—we have been sensitive to the problems of youth, unemployment, and the problems of minority youth unemployment in particular. And as we look at those problems—you have heard it this morning and you will probably hear it continually—is the lack of basic and literacy skills by many of our JTPA participants.

The council decided to review its role, and they tried to figure out how they could address California business' needs for a trained work force. And, as such, they recognized that today's workers—or today's youth will certainly be tomorrow's workers; and, therefore, they appointed a youth subcommittee.

As best we know it, the State of California has the first youth subcommittee for a State council in the Nation. On that committee we have legislative staff, we have business leaders, we have educators, economists, and others.

The charge of the youth committee of our State council was to take a look at all the research and all the programs that have operated throughout this Nation as they serve youth. And that council—that committee of the council was to develop some sort of a policy report. And they are in that process right now.

The committee looked at youth and they said, "The youth that we've got to deal with are those between the ages of 14 and 25." And that seems to be a large spread, but the point of that is that whole area of youth seemed to deal in the secondary labor market, as I heard Congressman Hawkins discuss earlier.

But not only is the fact of their youth a problem, but that they have other barriers to employment; the major one being school drop out. But the other barriers, when you add to being a drop out, you add to that the fact that many of the youth have criminal offenses, they have teenage pregnancies and parenthood problems,

alcohol and drug abuse, physical and mental handicaps, as well as poverty itself.

The youth committee takes a look at the opportunity for youth in the State of California and decided that there really are about four major problems that these youth all experience—that are common to all of them. They have a lack of basic and literacy skills for one. Second, they have a lack of job search skills; a lack of maturity skills; and a lack of job specific skills. So the committee said, "What would work? If we are going to deal with these young people, what could we do in our State that would definitely work?" The first thing that became abundantly clear, and I think you heard that from your preceding speakers, is that there are no quick fixes.

It is impossible in a Short period of time to try and remediate deep-rooted, long-seated problems. So, therefore, no one can expect that whatever we do can be done in a very short period of time. Second, there is only a certain amount of funds available; and those funds must be targeted.

And successful programs, as any of the problems that deal with youth, have certain basic common characteristics. And we would like to identify what we think those characteristics are.

One was referred to as the partnership between Government, business and education. If you do that you use community resources. If you provide that kind of a coordinated effort, you will provide some stability to the program.

Another area was that somehow we have to identify who these high risk youth are; and that seems to be a big lack of effort in that area. It is difficult to find youth who are disenfranchised with society. But yet it is a task that can be done; and we need to that. And yet that is a problem; but good programs have that built into it. Good programs have quality assessment and skills. Good programs have competency based programs that are based upon a job so that you know exactly what that person needs, as far as skills, in order to succeed.

On very important area is an encouraging environment with constructive feedback. The young person involved in a program has to be encouraged to participate; and has to know when they are doing well, or not doing well. People have to communicate.

We need a strong capacity for job placement. We need some troubleshooting after they are placed, so that the employer and the trainer and the person on the job has a chance to communicate and stay on that job and don't get back into the cycle.

And, last, we need some evaluation of what works; some long-term impact evaluation.

There are a few programs that specifically work well. One of those is a basic skill, literacy training program; a program that has, perhaps, some computer assisted instruction, a program that looks at the skills that young people need. That kind of a program works.

Work experience works. It instills discipline and responsibility and some other factors that the employer wants to have in the person they hire.

And the Summer Youth Program works. One of the interesting things we have discovered about summer youth is that the re-

search bears it out. The Summer Youth Program does get young people in jobs during the summer; gives them something to do. But a good program also links that with some basic skills and some literacy skills training; and not just the summer youth in itself—summer youth work experience in itself.

There are a few things that don't work, also. Sometimes people have unrealistic expectations of what could happen in a short-time line. Some people that the quick fix—everything can happen in very short periods of time—and that we can put youth in a training program and get them a job with a minimal amount of effort. That is not true. There has to be long-term involvement and support for young people as well.

We know the population. We know it works. There are some challenges that face all of us. One is we need a high profile in the business community to help serve youth and meet the needs of youth. Second, we need to challenge ourselves and offer competency based programs that include basic skills and literacy skills.

We need a strong linkage with work experience and remedial education, or summer programs in remedial education. And we need the long term commitment to continually monitor, evaluate and research those programs and make sure that what the funds are being spent on do work. The State council is mindful of the problems facing youth; and minority youth in particular, and those youth that have a history of criminal offenses and teenage pregnancies and alcohol and physical and mental handicaps and poverty. That is the youth that we are talking about.

They lack basic skills, job search skills, work maturity skills, and specific skills; but that all can be overcome. We do have programs that can handle that and we can overcome them.

In our State we have a Governor's coordination and special services plan, just like every other State. And if that plan is implemented, work out the series of interagency agreements, whereas everyone links their resources together we can serve them—if we couple this with private sector involvement.

Through the use of the proven strategies, through the partnership of big business and education and Government, we think that high risk youths can find a job; and we can prepare them for that job.

[The prepared statement of Gerald H. Kilbert follows:]

56-999 O - 86 - 2

PREPARED STATEMENT OF GERALD H. KILBERT, ON BEHALF OF THE CALIFORNIA STATE JOB TRAINING COORDINATING COUNCIL

The California State Job Training Coordinating Council (SJTCC), since its inception, has been sensitive to the problem of youth unemployment in California. The SJTCC is particularly sensitive to minority youth unemployment and the lack of basic/literacy skills by many new participants.

The SJTCC decided to review its role in assuring California businesses that there will be a trained work force ready to meet the current and future employment demands of business. Recognizing that today's youth will be tomorrow's workers, a Youth Subcommittee has been appointed including members of the SJTCC, educators, business leaders, legislative staff, incarcerated youth representation, economists, and youth. The Committee was charged with reviewing all research on youth employment and developing a policy report including recommended actions the SJTCC could take to combat high rates of joblessness among youth.

The Committee defined the population of these high risk youth as being between the ages of 14 and 25. This high risk group experiences multiple barriers to employment jeopardizing their immediate and long-term employability. A major barrier for these youth is dropping out of high school or graduating with educational deficiencies. Other barriers include employment skill deficits to say nothing of criminal offenses, teenage pregnancies and parenthood, alcohol and drug abuse, physical and mental handicaps, and poverty.

The Youth Subcommittee found that in general youth employment opportunities depend upon the economy and the growth of job openings. If there are not

enough jobs, unskilled youth have a problem in getting a job. The jobs which are available are difficult for youth to obtain because of the following four detrimental characteristics:

(1) Literacy and basic skill deficiencies,

(2) lack of job search skills,

(3) lack of work maturity skills, and

(4) lack of job specific skills.

The Youth Subcommittee reviewed the research on what works in helping youth possessing such deficiencies, prepare for a job. It is abundantly clear that there are no quick fixes! There are strategies that work, but no one should expect to have a quick fix to long-term, deeply rooted problems facing high risk youth.

Realizing there are no quick fixes and funding must be targeted, there are several strategies that can be taken to assist this high risk group in obtaining employment. Successful programs, whether they deal with basic skills, literacy education, or job specific training typically contain the following core of eight successful common traits:

1. Partnerships Between Government, Business and Education
2. Effective Identification and Recruitment of High Risk Youth
3. Quality Assessment of Aptitudes and Skills
4. Competency Based Training Related to Work:
    - o Basic Skill-Literacy Training
    - o Socialization for Work
    - o Job Skill Training

5. An Encouraging Environment and Constructive Feedback
6. A Strong Capacity for Job Placement
7. Contact and Troubleshooting During and After On-site Training
8. Evaluation of Long-Term Impacts and Mechanisms for Program Adjustment

Knowing who the population is and knowing what does work in helping this population obtain employment, leaves us with the following challenges:

1. There must be a high profile of the business community involved in all aspects of programs designed to serve high risk youth.

2. Priority must be given to competency based programs offering basic skill/literacy training for jobs.

3. Strong linkages between work experience and remedial education must be a component of every program.

4. Long-term commitments must be made to research on high risk youth, the evaluation of programs serving these youth and the related gathering of labor market supply and demand data.

The SJTCC is mindful of the unemployment problem faced by youth, particularly those with a history of criminal offenses, teenage pregnancies and parenthood, alcohol and drug abuse, physical and mental handicaps, and poverty. The lack of basic/literacy skills, job search skills, work maturity skills, and specific job skills can be overcome. Through the

coordination criteria established in the Governor's Coordination and Special Services Plan, and through a series of Interagency Agreements a frame work has been established whereby State Agencies coordinate and link their resources. Couple this with private sector involvement, such as through existing local Private Industry Councils, our own SJTCC, the State Council on Vocational Education and you have all the necessary ingredients for coordinative action. Through the use of the proven strategies, the partnership of business, government and education is showing that high risk youth are able to get and keep a job.

Mr. MARTINEZ. Thank you, Mr. Kilbert. Our next witness will be Theresa Bustillos, please.

STATEMENT OF THERESA BUSTILLOS, DIRECTOR, EMPLOYMENT PROGRAMS, MEXICAN-AMERICAN LEGAL DEFENSE AND EDUCATION FUND

Ms. BUSTILLOS. Chairman Hawkins and Chairman Martinez. My name is Theresa Fay Bustillos, and I am the National Director of Employment Litigation for the Mexican-American Legal Defense and Education Fund. MALDEF is a public interest law firm which defends and advances the civil rights of Hispanics residing in the United States, primarily in the areas of education, employment, voting rights, immigration, and health care.

We appreciate the timely opportunity to voice our concern and views regarding the current debate over affirmative action and rights and remedies under title VII of the 1964 Civil Rights Act.

Executive Order 11246 requires Government contractors and subcontractors to refrain from employment discrimination on the basis of race, color, religion, sex, or national origin, and to take affirmative action to assure that employees and applicants for employment are treated without regard to these factors.

Officials in the Reagan administration, primarily Attorney General Edwin Meese and Assistant Attorney General William Bradford Reynolds, have proposed that Executive order be amended to provide no basis for the continued use of goals or statistical measurements.

However, affirmative action goals have accomplished what prior efforts have failed to do: Set in motion a verifiable system of equal employment opportunity.

The first Executive order barring employment discrimination by Government contractors—specifically wartime defense contractors—was issued in 1941 by President Roosevelt. However, by the late 1950's it became apparent that after almost 20 years of nondiscrimination policies little change had occurred for minorities.

Two reports were subsequently issued, one from President Eisenhower's Contract Compliance Committee chaired by Vice President Nixon, and the other by the Potomac Institute.

Both reports reached the exact same conclusions. Discrimination was deeply rooted in the social fabric of this country. The primary hindrance to the development of equal employment opportunity was the indifference of employers to establish a positive policy of nondiscrimination; and that discrimination could exist and flourish in the face of nondiscrimination policies.

In response, President Kennedy issued Executive Order 10925 on March 6, 1961, and for the first time used the term "affirmative action." Under President Kennedy's Executive order, the emphasis was on voluntary action with technical assistance provided to contractors to assist them in recruitment and to overcome institutional barriers, and the creation of an organization which obtained pledges of cooperation from business.

In spite of these increased efforts, no significant changes in employment practices occurred which benefited minorities.

In 1968 the regulations for the first time required specific steps to be taken by contractors. These regulations, over the next 3 years, evolved into Revised Order No. 4, issued in 1971 and still largely in effect today. Revised Order No. 4 set forth the current procedures requiring utilization, availability analyses, and upon which goals and timetables would be set by the contractor or subcontractor.

Section (e) of Revised Order No. 4 states that: "Goals may not be rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of applying every good faith effort."

It has been clear that since the introduction of goals into the Executive Order Program that quotas were not a permissible part of affirmative action measures. Affirmative action is a collection of race and sex conscious remedies designed to ensure that otherwise fully qualified minorities are allowed plenary participation in those institutions in our society which have historically been closed to them.

The history of Hispanics clearly demonstrates the need for such remedial efforts. Indeed, the tradition of prejudice and discrimination against persons of Mexican descent is deeply rooted throughout the Southwest.

As the Supreme Court's decision in *Hernandez* v. *Texas* makes clear, systemic discrimination against Mexican-Americans in the administration of justice has long been the rule.

From the 1870's until the 1960's, copper companies in Arizona classified laborers as "Mexican labor" and paid them uniformly lower wages than those paid to their white counterparts.

Mr. MARTINEZ. Ms. Bustillos, your entire testimony will be entered into the record——

Ms. BUSTILLOS. Right.

Mr. MARTINEZ [continuing]. If you could—because it is quite a long statement—would you summarize——

Ms. BUSTILLOS. I've just been highlighting.

Mr. MARTINEZ. Oh, OK. Go ahead.

Ms. BUSTILLOS. No. I did try to time it. I run about 6 minutes.

Mr. MARTINEZ. Oh, great. Go ahead; disregard the interruption.

Ms. BUSTILLOS. In California, a State with a significant number of Government contracts, the 1980 Census Report said Hispanics

were 19 percent of the population and whites were 65 percent. It is estimated that by the year 2000 Hispanics will account for 30 percent of the State's population and 40 percent by 2030 with the median age of 31. Thus, Hispanics and other minorities will constitute a larger and larger majority of those in the prime working ages, ages 20 to 50. Figures for Hispanic income and employment document the urgent need for removing artificial employment barriers. The majority of Hispanics find themselves concentrated in low-status, low-paying jobs.

For example, for every $1 earned by a white male, Hispanic men earn 72 cents, white women 61 cents, and Hispanic women 52 cents.

In addition to limited opportunities and low wages, Hispanics experience higher levels of unemployment than the white population.

Social scientists have found that adequate employment is critical for minorities. In "The Chicano Worker," authors Briggs, Fogel, and Schmidt discuss the link between adequate employment and full participation in other aspects of American society. They say:

> Chicanos are becoming increasingly aware of the problems they face in their efforts to obtain an equitable share of the benefits of American society—problems of schooling, housing, health, employment, social status, and cultural identity. One of the greatest needs of Chicanos is improvement in their labor market experiences—better jobs and incomes. Good jobs with adequate incomes help to provide better schooling, health, and other benefits.

The recent attacks on affirmative action are not based upon hard evidence or thoughtful analysis, but simply upon a very shortsighted normative vision of employment espoused through constant rhetoric.

The reason opponents of affirmative action rely solely upon rhetoric is the clear absence of evidence to support their position. In numerous studies and analyses, the overwhelming conclusion is that affirmative action—and more specifically goals—have worked in changing rigid employment patterns.

One of the most comprehensive studies to date which documents this fact was conducted by OFCCP. That study found that the low improvement prior to 1974 was a reflection of the persistent and chronic failures of Government contractors under Executive order programs from World War II until the adoption of goals and timetables and statistical analyses in 1961.

Subsequently, through affirmative action, the stubborn employment patterns began to change. Substantially greater improvements in the employment of minorities between 1974 to 1980 among contractors, then among noncontractors, began to show. The changes in the participation rates were dramatic.

The budget analysis published by the Reagan administration entitled "Special Analysis J" criticized the OFCCP policy of goals, citing a study performed by economist Jonathan Leonard. The budget analysis, however, completely misconstrued Professor Leonard's findings.

Leonard found that, to the contrary, "The evidence in this study is that during their short and turbulent history, affirmative action and title VII have been successful in prompting the racial integration of the American workplace."

In a telephone interview with the BNA on the question of reverse discrimination, Professor Leonard responded: "The major question surrounding the debate over affirmative action is whether it has reduced discrimination, or has it induced reverse discrimination."

Although he said isolated examples of reverse discrimination could probably be identified, overall, "* * * no significant evidence of reverse discrimination" was found.

With regard to the issue of productivity, Leonard said that his research found that in the contractor sector productivity went up more than in the noncontractor sector. He also found that where "* * * minority and female employment has increased, productivity has not fallen. The evidence suggests," he said, "that both title VII and affirmative action had some success in reducing discrimination," while not hurting productivity.

Title VII gives Federal courts broad authority to order such forms of affirmative action relief as the judge determines are appropriate. Within the title VII context is the voluntary use of affirmative action remedies which courts have approved in settlement and collective-bargaining agreements.

The Civil Rights Division of the U.S. Department of Justice has taken the position that the only form of permissible relief is victim-specific relief to identified victims of discrimination.

Earlier this year, the Justice Department, in an effort to implement this interpretation, sent letters to 51 cities and counties across the country urging them to join the Justice Department in modifying their existing consent decrees to eliminate sex and race conscious remedies.

All appellate courts which have decided the issue have disagreed with the Justice Department's interpretation of the effect of *Stotts*. Moreover, overwhelmingly cities and counties contacted by the Justice Department have refused to join the Justice Department in seeking modification of their existing consent decrees.

The Justice Department's standard that the only appropriate relief is victim-specific relief to proven victims of discrimination would seriously undermine settlements in class action cases. In every settlement agreement, defendants generally insist that a nonadmission of liability clause be included.

Not only are defendants unwilling in a settlement to admit to any liability, but if the defendant were to admit to liability a plaintiff would certainly at that point request full relief.

In such a situation there could plainly be no compromise.

Victim-specific relief assumes individual victims are easily locatable or unimportant. Sex and race conscious prospective relief is formulated with the interest of an entire class in mind.

To date the EEOC has not issued a formal policy on remedies in class action cases. However, the last 6 months we have heard rumors that the Commission will not approve for recommendation for litigation or settlement any document which contains sex and race conscious relief, such as goals.

In cases MALDEF has pending before the EEOC, coordination of the investigation has become extremely difficult when settlement discussions involve goals as a form of relief. MALDEF urges this subcommittee to investigate the EEOC in order to clarify if the

EEOC has adopted a policy of permitting only victim-specific relief to identified victims of discrimination in all cases.

Now is not the time to reverse the trend toward equality of employment opportunity.

Thank you very much.

[The prepared statement of Theresa Fay Bustillos follows:]

PREPARED STATEMENT OF THERESA FAY BUSTILLOS, NATIONAL DIRECTOR OF EMPLOYMENT LITIGATION, MEXICAN-AMERICAN LEGAL DEFENSE AND EDUCATION FUND

Mr. Chairman and members of the Subcommittee, my name is Theresa Fay Bustillos and I am the National Director of Employment Litigation for the Mexican American Legal Defense and Educational Fund ("MALDEF"). MALDEF is a public interest law firm which defends and advances the civil rights of Hispanics residing in the United States primarily in the areas of education, employment, voting rights, immigration and health care. We have offices in Los Angeles, San Francisco, San Antonio, Chicago and Washington, D.C. I work in the Los Angeles office. We appreciate the timely opportunity to voice our concerns and views regarding the current debate over affirmative action and the rights and remedies under Title VII of the 1964 Civil Rights Act.

I. AFFIRMATIVE ACTION - EXECUTIVE ORDER 11246

The term affirmative action is used in basically two contexts - Executive Order 11246 and Title VII of the 1964 Civil Rights Act. Executive Order 11246 requires Government contractors and

subcontractors to refrain from employment discrimination on the basis of race, color, religion, sex or national origin and to take "affirmative action" to assure that employees and applicants for employment are treated without regard to these factors. Officials in the Reagan Administration, primarily Attorney General Edwin Meese and Assistant Attorney General William Bradford Reynolds, have proposed that Executive Order 11246 be amended to provide no basis for the continued use of goals. Affirmative action goals have accomplished what prior efforts have failed to do-set in motion a verifiable system of equal employment opportunity.

A. Historical Perspective

The first executive order barring employment discrimination by government contractors, specifically wartime defense contractors, was issued in 1941 by President Roosevelt (E.O. 8802). Presidents Truman and Eisenhower expanded the nondiscrimination provisions. However, by the late 1950's it became apparent that after almost twenty years of nondiscrimination policies little change had occurred for minorities. Two reports were subsequently issued, one from President Eisenhower's Contract Compliance Committee chaired by Vice-President Nixon, and the other by the Potomac Institute. Both reports reached the same conclusions - discrimination was deeply rooted in the social fabric of this country; the primary hindrance to the development of equal employment opportunity was the indifference of employers to establish a positive policy of nondiscrimination; and discrimination could exist and flourish in the face of policies of nondiscrimination.

In response, President Kennedy issued Executive Order 10925 on March 6, 1961 which for the first time used the term "affirmative action". However, it was not until the late 1960's that contractors were given any guidance on what affirmative action meant or required.

Under President Kennedy's Executive Order a more active and professionalized program was established. The emphasis of the program was on voluntary action with technical assistance provided to contractors to assist them in recruitment and to overcome institutional barriers and the creation of an organization which obtained pledges of cooperation from business. Inspite of these increased efforts no significant changes in employment practices occurred which benefitted minorities. In 1968 the regulations for the first time required specific steps to be taken by contractors. These regulations over the next three years evolved into Revised Order No. 4, issued in 1971 and still largely in effect today. Revised Order No. 4 set forth procedures requiring utilization and availability analyses upon which goals and timetables would be set by the contractor or subcontractor with 50 or more employees and a contract of $50,000 or over.

Section (e) of Revised Order No. 4 states:

> "Goals may not be rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work." (emphasis added)

It has been clear since the introduction of goals into the Executive Order program that quotas were not a permissable part of affirmative action measures. Professor James Jones, who was an Associate Solicitor of Labor during the period goals were introduced into the program, framed the purpose of goals as follows:

> "All that a contractor has to do to be eligible for a contract is to make a commitment to seek in good faith to meet his self-imposed goal. There is neither per se compliance nor per se violation associated with the goals or ranges. Minority utilization above or below the goals, or above or below the ranges, at most is presumptive evidence of compliance on the positive side, and on the negative side, evidence of probable cause to believe that a review of a contractor's overall compliance posture is warranted."

B. Importance of Affirmative Action Goals To Address The Lingering Effects of Discrimination

Affirmative action is not a set of requirements arbitrarily imposed upon employers without regard to the employers history of hiring and treatment of minorities and women. Rather, it is fundamentally a remedy to redress the continuing effects of past discrimination. Affirmative action is a collection of race and sex conscious remedies designed to ensure that otherwise fully qualified minorities are allowed plenary participation in those

institutions in our society which have historically been closed to them.

The history of Hispanics clearly demonstrates the need for such remedial efforts. Indeed, the tradition of prejudice and discrimination against persons of Mexican descent is deeply-rooted throughout the Southwest. As the Supreme Court's decision in Hernandez v. Texas makes abundantly clear, systemic discrimination against Mexican Americans in the administration of justice has long been the rule. Similarly, segregation in public accomodations and facilities has also been quite commonplace.

In employment, discrimination has been equally pervasive. For example, from the 1870's until the 1960's, copper mining companies in Arizona classified laborers of Mexican origin as "Mexican labor" and paid them uniformly lower wages than those paid to their white counterparts. A 1930 study conducted in California found that jobs in which Mexican Americans tended to be employed were primarily seasonal in nature, had little potential for advancement, and were largely in undesirable locations.

Hispanics are the fastest growing population group in the country. The 1980 census places the number of Hispanics in the mainland United States at 14.6 million or 6.4 percent of the total United States population. Hispanic growth during the last decade was significant - Hispanics made up only 4.5 percent of the population in the 1970 Census. It is anticipated that the Hispanic population should continue to grow at a faster rate than the non-Hispanic population.

While the Hispanic growth rate will affect the entire country the effects of discrimination will be more profound in areas with the largest concentrations of Hispanics. In California, a state with a significant percentage of government contracts, the 1980 Census reports that Hispanics were 19% of the population and whites were 65%. It is estimated that by the year 2000 Hispanics will account for 30% of the state's population and 40% by 2030 with a median age of thirty-one. Thus, Hispanics and other minorities will constitute a larger and larger majority of those in the prime working years, ages twenty to fifty.

Figures for Hispanic income and employment document the urgent need for removing artificial employment barriers. The proportion of the Hispanic population working all or part of the year during 1984 total 66%. The proportion of whites with jobs was 69% and for blacks 61.8%. The majority of employed Hispanics find themselves concentrated in low-status, low-paying jobs. 15.5% of Hispanic men and 13.5% of Hispanic women work in the professional-technical or managerial-administrative sectors compared to 34.5% of men and 24.4% of women in the total population. 29.8% of Hispanic men and 25% of Hispanic women are operatives or laborers compared to 18.2% and 11% of men and women, respectively, in the total population. For every one dollar earned by a white male, Hispanic men earn 72 cents, white women 61 cents and Hispanic women 52 cents.

Differences in the earning gap for men and women is often explained away by citing differences in the frequency and length of education and work interruptions. However, a recent study by

the Bureau of the Census found that if women had the same education, experience and interruptions as men, the earnings would only be reduced by 14.6%. The study went on to report that this unexplained variance is attributed to unmeasured factors, such as discrimination and the quality of education.

From 1975 through 1984, the United States civilian labor force grew by 21%. Women contributed more than 62% of the total growth as their numbers rose from 37 million to 50 million. Moreover, the majority of women worked because of economic necessity. In 1984 about 23% of Hispanic families were maintained by women. Of these families 54% had incomes in 1983 below the poverty level compared with 36% of all families maintained by women. The 1983 median income of Hispanic women with year round full-time jobs was lower ($11,874) than that of similarly-situated white women ($14,479).

In addition to limited employment opportunities and low wages Hispanics experience higher levels of unemployment than the white population. During the second quarter of 1985 the unemployment rate for Hispanic men was 9.9%, for Hispanic women 10.8%; for black men 15.1%, for black women 14.9%; and for white males 6.2%, for white women 6.4%.

Social scientists have found that adequate employment is critical for minorities. In The Chicano Worker, Vernon M. Briggs, Jr., Walter Fogel, and Fred H. Schmidt discuss the link between

adequate employment and full participation in other aspects of American society:[1]

> ". . .Chicanos are becoming increasingly aware of the problems they face in their efforts to obtain an equitable share of the benefits of American society--problems of schooling, housing, health, employment, social status, and cultural identity. One of the greatest needs of Chicanos is improvement in their labor-market experiences--better jobs and incomes. Good jobs with adequate incomes help to provide better schooling, health, and other benefits."

The result of equal employment opportunity is the integration of the American work force - not by giving preference to unqualified minorities and women but by opening the doors of opportunity historically closed to qualified minorities and women. The recent attacks on affirmative action are not based upon hard evidence or thoughtful analysis - but simply upon a very short-sighted normative vision of employment espoused through constant rhetoric. A recent example of the type of rhetoric supporters of affirmative action have been subjected to is best

---

[1]Vernon M. Briggs, Jr., Walter Fogel, and Fred H. Schmidt, The Chicano Worker (Austin: University of Texas Press, 1977), p. xiv.

exemplified by a quote from Attorney General Edwin Meese, the co-author of the proposed amendment to gut Executive Order 11246. In a New York Times article of September 18, 1985, Attorney General Meese was quoted as comparing "supporters of racial employment quotas to Americans who once argued 'that slavery was good not only for the slaves but for the society'."

The reason opponents of affirmative action rely solely upon rhetoric is the clear absence of evidence to support their position. In numerous studies and analyses conducted by the OFCCP, U. S. Deparment of Labor; Jonathan Leonard of the National Bureau of Economic Research and the University of California at Berkeley; the Citizens Commission on Civil Rights; and the Potomac Institute the overwhelming conclusion is that affirmative action, and more specifically goals have worked in changing rigid employment patterns.

For Hispanics in this country, as well as for other minorities and women, affirmative action has worked in the last decade in beginning to reach entrenched employment discriminatory practices. One of the most comprehensive studies to-date which documents this fact was conducted by OFCCP. OFCCP conducted a matched-establishment analysis of over 77,000 identical establishments for which employers filed EEO-1 reports in both 1974 and 1980. These establishments employed a total of 20.8 million workers in 1980.

In 1974, noncontractors employed somewhat higher proportions of minorities than contractors in six of nine job categories: officials and managers, professionals, technicians, sales workers,

craft workers, and laborers. The study found that these figures were a reflection of the persistent and chronic failures of government contractor programs from World War II until the adoption of goals and timetables and statistical analysis. Subsequently, through affirmative action, the stubborn employment patterns began to change. Substantially greater improvements in employment of minorities between 1974 to 1980 among contractors than among noncontractors began to show. The changes in participation rates were dramatic. In all but one job category, contractors had greater increases than noncontractors. For officials and managers, it was 57 percent against 32 percent; for professionals, 57 percent against 11 percent; for technicians, 45 percent against 6 percent; for sales workers, 56 percent against 21 percent. The contractor and noncontractors figures, respectively, for office and clerical workers were 37 percent and 27 percent; and for craft workers, 38 percent and 24 percent.

A budget analysis published by the Reagan Administration entitled Special Analysis J, criticized the OFCCP policy of goals citing a study performed by economist Jonathan Leonard. That study, the budget analysis claimed, "contains considerable evidence" to support the contention of former Solicitor of Labor Lawrence Silberman that "'Once [OFCCP] got into the numbers game, it stopped being equal opportunity." However, the Budget Analysis completely misconstrued Professor Leonard's study and findings.

In a telephone conversation with BNA, Leonard attempted to set the record straight. He indicated that the author of the budget analysis had "pulled out the [statements] most critical" of

affirmative action. To the contrary, Leonard found that: "The evidence in this study is that during their short and turbulent history, affirmative action and Title VII have been successful in prompting the racial integration of the American workplace."

In the BNA telephone interview Leonard also made the following observations in comparing his 400 page study and the criticisms leveled against affirmative action in the Budget Analysis.

"Reverse Discrimination: The "major question" surrounding the debate over affirmative action is whether it has reduced discrimination or has it induced reverse discrimination. Although he said isolated examples of reverse discrimination could probably be identified, overall, "no significant evidence of reverse discrimination" was found.

"Productivity: Leonard said his research found that in the "contractor sector" productivity went up more than in the "noncontractor sector." He also found that where "minority and female employment has increased, productivity hasn't fallen." The evidence suggests, he said, that both "Title VII and affirmative action had some success in reducing discrimination," while not hurting productivity.

"Goals - a Euphemism for Quotas: Leonard disagreed that affirmative action has become a euphemism for rigid quotas. He based this assertion on his findings that the contractor community frequently falls "short" in fulfilling the goals that have been set, without being penalized by the government. Therefore, he said, it is apparent that these numbers are not "rigid quotas."

However, goal-setting has been effective in increasing the employment of minorities and women, he said, because the more a contractor "promised" to do, the more was actually "achieved" - in spite of not meeting the goals."

Although Leonard recommended in his study that OFCCP could do a better job at targeting enforcement efforts against companies most likely to discriminate the program has "had the effect of reducing discrimination."

The question of whether or not affirmative action has been effective in reducing discrimination is a controversial one. If the program is considered to have been effective, then it is criticized for promoting race or sex conscious preferences. If the response to the question is that it has been ineffective, then critics charge there is a problem with the program. This inconsistency is the result of basing the campaign against affirmative action on rhetoric rather than facts or thoughtful analysis.

The opponents of affirmative action goals would like to retreat to the practices used from 1941 through 1968 - voluntary compliance pursuant to policies of non-discrimination. They want to reverse the present trend to a time when only overt acts of discrimination were cognizable. The current regulations already bar the use of quotas. Remedies geared to neutrality have been shown to be inadequate in the past. Those that advocate for a retreat to this policy offer no explanation as to why or how this system should work now. The effect of prohibiting or discouraging the use of any type of verifiable system like goals is to tolerate

the current discriminatory barriers impeding the employment opportunities of minorities and women.

II. AFFIRMATIVE ACTION - TITLE VII OF THE 1964 CIVIL RIGHTS ACT

Title VII gives federal courts broad authority to order such forms of affirmative action relief as the judge determines are appropriate. Within the Title VII context is the voluntary use of affirmative action remedies which courts have approved in settlement and collective bargaining agreements. The Civil Rights Division of the United States Department of Justice has taken the position that the only form of permissable relief is victim-specific relief to identified victims of discrimination. Therefore, class-wide remedies such as goals are impermissable. The Justice Department relies upon the case of Firefighters Local Union No. 1784 v. Stotts, 104 S.Ct. 2576 (1984) for authority. This position has far-reaching effects for enforcement and voluntary efforts.

Earlier this year the Justice Department, in an effort to implement this interpretation, sent letters to fifty-one cities and counties across the country urging them to join the Justice Department in modifying their existing consent decrees to eliminate sex and race conscious remedies (goals). The Justice Department also initiated legal action seeking modification of consent decrees in some cities where voluntary cooperation was not forthcoming.

The Justice Department has filed amicus briefs in appellate courts and the United States Supreme Court urging the elimination

of prospective race and sex conscious relief such as goals. Civil rights organizations such as MALDEF, NAACP Legal Defense Fund, Lawyers Committee For Civil Rights Under The Law, and others have spent their resources urging Courts and employers to follow the existing state of the law set forth in United Steelworkers of America v. Weber and Fullilove v. Klutznick, which have approved the use of prospective race conscious relief. All appellate courts which have decided the issue have disagreed with the Justice Department's interpretation of the effect of Stotts. Moreover, overwhelmingly cities and counties contacted by the Justice Department have refused to join the Justice Department in seeking modification of their existing consent decrees.

The Justice Department standard that the only appropriate relief is victim specific relief to proven victims of discrimination is problematic in class action cases. Such a standard would seriously undermine settlements. In every settlement agreement defendants generally insist that a nonadmission of liability clause be included. A requirement that consent decrees or settlement agreements provide for a determination of liability in order to support a basis for relief in the agreement seriously undermines any form of settlement. Not only are defendants unwilling in a settlement to admit to any liability, but if the defendant were to admit to liability a plaintiff would certainly at that point request full relief. In such a situation there could plainly be no room for compromise. Further, victim-specific relief often ignores those victims of discrimination who did not apply for a position because of

defendant's known discriminatory policies. Victim specific relief assumes these victims are either easily locatable or unimportant. Finally, sex and race conscious prospective relief are formulated with the interests of the entire class in mind. Victim-specific relief is only geared to individuals - in a class action case alleging the far-reaching impact of recruitment or hiring or promotion discrimination - victim-specific relief may be inadequate.

On February 5, 1985 the Equal Employment Opportunity Commission issued a Policy Statement on Remedies and Relief For Individual Cases of Unlawful Discrimination. The policy statement asserts that full relief will be sought for each individual victim of discrimination. The policy statement clearly indicates that it is limited to individual cases of discrimination and not class actions. To-date the EEOC has not issued a formal policy on remedies in class action cases. However, for the last six months we have heard rumors that the Commission will not approve any recommendation for litigation or settlement agreement which contains prospective sex and race conscious remedies. In cases MALDEF has pending before the EEOC coordination of the investigation has become difficult when settlement discussions involve goals as a form of relief. MALDEF urges this subcommittee to investigate in order to clarify if the EEOC has adopted a policy of permitting only victim-specific relief to identified victims of discrimination in all cases (class or individual).

Professor Leonard found that class action suits under Title VII have been "among the most powerful prouds (sic) to increasing

minority and female employment." Traditionally, sex and race conscious prospective relief have been the main stay of consent decrees in class cases. It is important that any and all efforts to weaken the class action vehicle be closely scrutinized. The EEOC is reviewing the employee selection guidelines. This action can have far-reaching effect on the future of the class action vehicle to uproot discriminatory practices. We urge this subcommittee to investigate the EEOC's actions in the area of class relief and to monitor the EEOC review of the uniform guidelines on employee selection. Affirmative action goals have accomplished what prior efforts have failed to do-set in motion a verifiable system of equal employment opportunity.

Mr. MARTINEZ. Thank you. Our next witness will be Patricia Shiu. Did I pronounce that right?

Ms. SHIU. Yes, you did.

STATEMENT OF PATRICIA SHIU, FIRST VICE PRESIDENT, CALIFORNIA WOMEN LAWYERS ALLIANCE

Ms. SHIU. Mr. Chairman, Congressman Hawkins, and members of the subcommittee, thank you for the opportunity to testify before you today on vital questions of civil rights policy raised by recent efforts of the administration to dramatically revise the effect of Executive Order 11246 and to modify existing consent decrees which order race and/or gender conscious remedies.

I am Patricia Shiu, first vice president of California Women Lawyers Alliance, and a staff attorney at the Employment Law Center.

On behalf of CWL and ELC I present the following testimony.

California Women Lawyers was founded in 1975 to advance the cause of women in the legal profession and in society. Manifesting the same cultural wealth of the State of California, CWL's membership and board reflect racial, ethnic, and religious diversity.

It is a bipartisan organization. It is also a statewide professional organization seeking to promote the interests of women on a variety of fronts. Since its inception CWL has lobbied the California State legislature on issues ranging from reproductive rights to parental leave, filed numerous amicus briefs on issues pertaining to equal employment, and strongly advocated increased appointments of qualified women to the bench.

Through legislative lobbying, amicus litigation, and judicial evaluations, CWL has been a driving force in the advancement of women's interests throughout California.

Founded over 50 years ago by San Francisco attorneys to provide representation for those unable to afford private counsel, the Legal Aid Society of San Francisco has evolved from a volunteer legal organization into a thriving legal office with a staff of 14.

Through its main project, the Employment Law Center, the legal Aid Society focuses primarily on employment issues.

ELC was created in 1972 to address legal problems encountered by the disadvantaged in their efforts to secure and retain employment. It provides advice and representation to those who want to work but have been denied that opportunity for reasons other than their ability to do the job.

ELC is also continuing its efforts to continue to ensure that women and minorities have equal access to employment opportunities. It assists women seeking nontraditional, blue collar employment; it is currently representing those who have been denied acceptance into registered apprenticeship programs; and it is grappling with the employment problems associated with plant closures in its class action lawsuit *Carson* v. *Atari*.

The center has broadened into other areas affecting the employment of the poor, including occupational health and safety, pregnancy, and substandard wages and working conditions in the secondary labor force.

The Reagan administration's recent efforts to withdraw meaningful commitment to affirmative action through revision of Executive Order 11246, and to dismantle existing consent decrees is a cause of great concern to us.

The administration would change Executive Order 11246 in three significant ways. First, the use of any numerical goal, quota, or ratio by a Government contractor or subcontractor would not be required in its attempt to engage in affirmative action in employment. Second, under Executive Order 11246 as proposed, the contractor is not required to take into account the sex, race, religion or national origin of any individual. Finally, all regulations and guidelines promulgated which require a contractor to use numerical quotas, goals, ratios, or objectives are immediately revoked.

It is with grave concern that we address the serious effects certain to come about should the administration undermine the progress of affirmative action by amending the present nondiscrimination requirements for Government contractors as above.

The use of goals and timetables, coupled with statistics, are the essential tools necessary in eradicating employment discrimination. Wholesale disposal of these tools disregards their proven usefulness. Thoughtful remedies used to address such discrimination need some basis in reality. Numerical goals and statistics provide us with the means to evaluate our progress and our future direction. Elimination of these tools leave little with which the victim of discrimination may wage her fight.

In addition, this proposed amendment will also forbid the use of any numerical measure to monitor the progress and good faith efforts of contractors in their quest to realize a meaningful affirmative action policy.

Susan Suafai is the executive director of Women in Apprenticeship in San Francisco, and this is the comment she makes on the necessity of maintaining viable good faith goals:

> In the construction industry, the existence of goals provided tradeswomen with the opportunity to get their foot in the door; but only, however, in federally assisted or federally granted contract work sites. The reality is that prior to the use of goals,

no tradeswomen gained entry into the construction industry; and even after the existence of goals, tradeswomen are rarely, if ever, used on private sites.

According to a recent report of the Employment Standards Administration of the Department of Labor which compared the employment patterns of minorities and women in Federal contractor and noncontractor establishments, greater changes in participation rates were made by minorities and women in employer establishments which have operated under the Executive order's affirmative action requirements, than were made in establishments that only operated under the employment discrimination prohibitions of title VII of the Civil Rights Act.

The propriety of such goals is an item to which the administration has focused much of its attention. Contrary to the notion that the goal set is a quota in the sense that contractors who fail to meet that number will automatically face contract cancellation and debarment, the standard used in determining whether a contractor has complied with a certain goal is a good faith test.

This is a case-by-case factual determination, based on the specific efforts made by a particular contractor to obtain the goal; and where good faith is demonstrated, the goal need not be met.

Furthermore, the propriety of a specific numerical goal established by the Office of Federal Contract Compliance Program reflects the targeted participation rate of a particular minority group or women in an industry.

For example, in the construction industry, 6 percent is the applicable goal. And I would just like to comment here that at the time the 6 percent was set, it was not conceived of as being a ceiling. It was conceived of as being a minimum floor; the idea being that if there were 6 percent of women in the construction industry, that in itself would have somewhat of a trickle-down effect and would encourage other women to also become involved in that particular industry.

With regard to job training, I would like to say that the affirmative action requirements in job training programs are also subject to attack under the proposed amendment.

Job training is an essential element of any plan to fully integrate the work force. It works in conjunction with the goals and timetables of Executive Order 11246, since the goals cannot be met without a trained pool of women and men of every race, creed, and color.

Over the years, the Federal Government has implemented a number of job training programs. In addition, it regulates and funds a nationwide on-the-job training system for apprentices in the skilled trades through the Bureau of Apprenticeship Training in the Department of Labor.

In California alone, over 30,000 women and men are registered apprentices in the plumbing, electrical, carpentry, and dozens of other trades.

Federal and state affirmative action goals for women require, on the average, that 20 percent of these apprentices be women. Since 1978, when fewer than 1 percent of all California apprentices were female, the participation of women in apprenticeships has increased to over 9 percent. There is still a long way to go, but some

progress has been made, again, with the assistance of goals and timetables.

Women want to leave the occupational ghetto to which they have been relegated; and industry desperately needs their energy and intelligence.

With the support of goals and timetables such as those used under Executive Order 11246, and training like that offered in apprenticeship training programs, women can participate fully in the wide range of opportunities offered by American industry.

I would also like to make a few very brief comments about the Justice Department's endeavors to eliminate race and sex conscious remedies.

In the past several months the Civil Rights Division of the Justice Department has launched a systematic attack on the civil rights of women and minorities. It has undertaken this mammoth effort by requesting numerous jurisdictions to reopen consent decrees which provide for the hiring of women and minorities.

William Bradford Reynolds, Assistant Attorney General for Civil Rights, is a principal player in the administration's attempt to undo these consent decrees.

It is the position of the Department of Justice that the *Stotts* decision prevents courts from ordering preferential layoffs, or disruptions of any bona fide seniority system unless the plaintiffs are specific victims of discrimination. Moreover, the Justice Department asserts that the only "* * * make whole relief for actual victims of discrimination" is permitted under *Stotts*.

The position of the Justice Department has not been adopted by the courts. Prior to the *Stotts* decision appellate courts upheld court-ordered or approved preference plans.

Post-*Stotts* cases have restricted the application of the Supreme Court's decision to the facts of that case.

What is most unbecoming about the Justice Department's position on this issue is its manifest misrepresentation of the state of the law. Its attempt to so broadly construe the *Stotts* opinion is simply disingenuous and inaccurate.

The Justice Department seems to have no bounds in its quest to change the law to conform to the administration's obscure notions on affirmative action. It is certainly unsettling to know that the Civil Rights Division of the Justice Department, once a driving force in the area of civil rights, strives not to promote the civil rights of women and minorities, but rather endeavors to impede such rights.

California Women Lawyers and the Employment Law Center strongly support affirmative action, including goals and timetables for women and minorities. We object to any changes in the 50 consent decrees reached after good faith negotiation between local jurisdictions and the Federal Government. Now is not the time for backsliding and reaction.

The goal of fair treatment for all Americans is fundamental to a healthy society. We look to the future, not a rerun of the inglorious past.

Thank you.

[The prepared statement of Patricia A. Shiu follows:]

PREPARED STATEMENT OF PATRICIA A. SHIU, FIRST VICE PRESIDENT, CALIFORNIA WOMEN LAWYERS

I. INTRODUCTION

Thank you for the opportunity to testify before you today on vital questions of civil rights policy raised by recent efforts of the Administration to dramatically revise the effect of Executive Order 11246 and to modify existing consent decrees which order race and/or gender conscious remedies. On behalf of California Women Lawyers (CWL) and the Employment Law Center (ELC) I present the following testimony.

California Women Lawyers (CWL) was founded in 1975 to advance the cause of women in the legal profession and in society. Manifesting the same cultural wealth of the State of California, CWL's membership and board reflect racial, ethnic, and religious diversity. It is a bipartisan organization with no specific political affiliation. It is a state-wide professional organization seeking to promote the interests of women on a variety of fronts. Since its inception CWL has lobbied the California state legislature on issues ranging from reproductive rights to parental leave, filed numerous *amicus* briefs on issues pertaining to equal employment, and strongly advocated increased appointments of qualified women to the bench. Through legislative lobbying, *amicus* litigation, and judicial evaluations CWL has been a driving force in the advancement of women's interests throughout California.

Founded over fifty years ago by San Francisco attorneys to provide representations for those unable to afford private counsel, the Legal Aid Society of San Francisco has evolved from a volunteer legal organization into a thriving legal office with a staff of fourteen. Through its main project, the Employment Law Center, the Legal Aid Society focuses primarily on employment issues. The Employment Law Center was created in 1972 to address legal problems encountered by the disadvantaged in their efforts to secure and retain employment. It provides advice and representation to those who want to work but have been denied that opportunity for reasons other than their ability to do the job. It also assists public agencies, comunity groups and employees concerned with workforce issues. ELC is also continuing its efforts to ensure that women and minorities have equal access to employment opportunities. For example, it assists women seeking nontraditional, blue collar employment; it is currently representing those who have been denied acceptance into registered apprenticeship training programs. In addition, ELC is grappling with the employment problems associated with plant closures in its class action lawsuit *Carson* v. *Atari* (citation omitted). The Center has broadened into other areas effecting the employment of the poor, including occupational health and safety, pregnancy, and substandard wages and working conditions in the secondary labor force.

Both CWL and ELC join Secretary of Labor William Brock and the National Association of Manufacturers and strongly support a policy of affirmative action in employment and its implementation vis a vis Executive Order 11246 and existing consent decrees. The Reagan Administration's recent efforts to withdraw meaningful commitment to affirmative action through revision of 11246 and to dismantle existing consent decrees is a cause of great concern to us. In the testimony that follows we separately address each of these efforts and the serious ramifications should each effort come into fruition.

II. THE AMENDMENT OF EXECUTIVE ORDER 11246

A. Goals and Timetables

The Administration would change Executive Order 11246 in three significant ways. First, the use of any numerical goal, quota, or ratio by a government contractor or subcontractor would not be required in its attempt to engage in affirmative action in employment. Second, under 11246 as proposed, the contractor is not required to take into account the sex, race, religion or national origin of any individual. Finally, all regulations and guidelines promulgated which require a contractor to use numerical quotas, goals, ratios, or objectives are immediately revoked.

It is with grave concern that we address the serious effects certain to come about should the Administration undermine the progress of affirmative action by amending the present nondiscrimination requirements for government contractors as above. The use of goals and timetables coupled with statistics are the essential tools necessary in eradicating employment discrimination. Wholesale disposal of these tools disregards their proven usefulness. Thoughtful remedies used to address such discrimination need some basis in reality. Numerical goals and statistics provide us

with the means to evaluate our progress and our future direction. Elimination of these tools leave little with which the victim of discrimination may wage her fight.

This proposed amendment will forbid the use of any numerical measure to monitor the progress and good-faith efforts of contractors in their quest to realize a meaningful affirmative action policy. Susan Suafai, Executive Director of Women in Apprenticeship, comments on the necessity of maintaining viable good-faith goals. "In the construction industry the existence of goals provided tradeswomen with the opportunity to get their foot in the door but only, however, in federally assisted or federally granted contract work sites; the reality is that prior to the use of goals no tradeswomen gained entry into the construction industry, and even after the existence of the goals, tradeswomen are rarely if ever used on private sites." Thus the goals are absolutely necessary to ensuring the continued participation of tradewomen in the construction industry.

According to a recent report of the Employment Standards Administration of the Department of Labor which compared the employment patterns of minorities and women in federal contractor and noncontractor establishments (1974–1980), greater changes in participation rates were made by minorities and women in employer establishments which have operated under the Executive Order's affirmative action requirements, than were made in employer establishments that only operated under the employment discrimination prohibitions of Title VII of the Civil Rights Act.[1] In addition, this report concludes that the impact of the Executive Order program is an increased participation of women and minorities in employment, especially in areas where the program required special attention. The report also concludes that the distribution of minorities and women within the work force shifted from service workers and lower-skilled blue collar jobs to white-collar and higher skilled blue-collar jobs to a greater degree than in establishments not covered by the Order.[2] The utilization of goals as a means of ensuring increased participation of women and minorities in areas of employment where they occupied few, if any such positions prior to the affirmative action mandate, substantiates the usefulness and success of such goals.

The propriety of such goals is an item to which the Administration has focused much of its attention. Contrary to the notion that the goal set is a "quota" in the sense that contractors who fail to meet that number will automatically face contract cancellation and debarment, the standard used in determining whether a contractor has complied with a certain goal is a good-faith test. This is a case-by-case factural determination based on the specific efforts made by a particular contractor to obtain the goal and where good-faith is demonstrated the goal need not be met.

Furthermore, the propriety of a specific numerical goal established by the Office of Federal Contract Compliance Program reflects the targeted participation rate of a particular minority group or women in an industry. For example, in the construction industry 6% is the applicable goal. It was not conceived as a cap of any kind on the target participation rate of women in the construction industry, but it was viewed as a minimum floor with the thought that if women captured 6% of construction industry trade jobs then their interest in the industry would have the effect of bringing other women into the industry. Employment discrrimination has the effect of depriving certain areas of industry of valuable human resources and unfortunately, the greater the pervasiveness of employment discimination the greater the loss of human resources. As is true with other forms of discrimination, the existence of employment discriminations strongly suggests that employers are failing to tap the full range of skills inherent in the American work force.

B. Job Training

Affirmative action requirements in job training programs are also subject to attack under the proposed amendment. Job training is an essential element of any plan to fully integrate the workforce. It works in conjunction with the goals and timetables of Executive Order 11246 since the goals cannot be met without a trained pool of women and men of every race, creed, and color.

Over the years the Federal government has implmented a number of job training programs. In addition, it regulates and funds a nationwide on-the-job training system for apprentices in the skilled trades through the Bureau of Apprenticeship

---

[1] The official citation is "Employment Patterns of Minorities And Women In Federal Contractor and Noncontractor Establishment, 1974–1980: A Report of The Office of Federal Contract Compliance Programs" by the Employment Standards Administration, U.S. Department of Labor, June 1984.

[2] *Id.* at pp. 63–64.

Training in the Department of Labor. In California alone, over 30,000 women and men are registered apprentices in the plumbing, electrical, carpentry and dozens of other trades. Federal and state affirmative action goals for women require, on the average, that 20% of these apprentices be women. Since 1978, when fewer than 1% of all California apprentices were female, the participation of women in apprenticeships has increased to over 9%. There is still a long way to go, but some progress has been made, again, with the assistance of goals and timetables.

The apprenticeship system is an excellent way to begin creating a pool of trained women in the skilled trades. Because it includes a job as well as classroom instruction, the nation's apprenticeship training system is an especially useful tool for training women, many of whom must continue to work while they train. Women are also drawn to apprenticeships because the wages are, as a general rule, far higher than they can command in more traditional areas of employment.

Finally, apprenticeship training in the skilled construction trades offers women a range of challenging career choices the have long been denied. Many women love working outside, with their hands, on concrete projects that produce an identifiable and tangible result. These women are committed to a career in the trades, and with the right training can form a dynamic part of the workforce in the construction and related industries.

Women want to leave the occupational ghetto to which they have been relegated, and industry desperately needs their energy and intelligence. With the support of goals and timetables such as those used under Executive Order 11246, and training like that offered in apprenticeship training programs, women can participate fully in the wide range of opportunities offered by American industry.

C. Effect of the Administration's Proposed Amendment of 11246 on Federal Contract Compliance

Such an amendment will only prohibit employment discrimination in situations manifesting overt intentional discrimination. By providing that the test for compliance with the amended version of 11246 is a showing of "demonstrated nondiscriminatory treatment," the Administation has effectively eliminated other means of proving employment discrimination. For example, theories relating to "disparate treatment" which concerns practices that result in different treatment based solely upon an immutable characteristic and "disparate impact" which concerns practices that on their face are neutral but which in practice have the effect of perpetuating past discrimination, are read out of existence. Revision of 11246 to eliminate these other bases of showing discrimination denies the reality that employment discrimination comes in many forms and wears many masks.

D. Historical Enforcement of 11246

The Administration's amended version of 11246 seriously undermines the spirit and traditional policy on affirmative action. A brief review of the historical context and evolution of 11246 illuminates the destructive attitude of this Administration to the traditional enforcement of 11246.

Executive Order 11246 is the culmination of years of refinement and commitment to affirmative action. Since its earliest inception in 1941 when Franklin Delano Roosevelt issued Executive Order 8802 prohibiting discrimination on the basis of race, color, creed or national origin by all defense contractors and the Federal government, and since its considerable restructuring by President John F. Kennedy, Executive Order 11246 has been vigorously enforced by each administration including the Eisenhower and Nixon administrations.

It was not until 1961 when President Kennedy issued Executive Order 10925 that the structure established by Roosevelt was substantially changed. This Executive Order made three principal changes. First, it mandated an "Equal Employment Opportunity" clause for inclusion in government contracts. Second, it used the term "affirmative action." Third, it established an enforcement structure. Thereafter President Johnson issued Executive Order 11246 which transferred the compliance program to the Department of Labor which in turn established the Office of Federal Contract Compliance to develop and administer overall policy. In 1967 President Johnson extended protections to women by amending 11246 and issuing Executive Order 11375. In 1978 President Carter provided for the coordination of Federal

equal employment by consolidating all contract compliance functions for equal opportunity into the Office of Federal Contract Compliance Programs.[3]

Now the Reagan Administration is attempting to dismantle this established system for ensuring affirmative action among federal contractors. The proposed amendment disregards the historical commitment to the aims of viable affirmative action policies. It is an affront to all the achievements and progress that has been made thus far. Sadly, affirmative action is still necessary and will continue to be necessary until all forms and all vestiges of discrimination have been eliminated.

Its purpose is as clear today as it was almost 45 years ago—the eradication of employment discrimination. Executive Order 11246 is an historic document and represents an outstanding American tradition; a commitment to the integrity of the individual, the continuing struggle against inequality, and the formation of a tolerant society.

III. THE JUSTICE DEPARTMENT'S ENDEAVORS TO ELIMINATE RACE AND SEX-CONSCIOUS REMEDIES

In the past several months the Civil Rights Division of the Justice Department has launched a systematic attack on the civil rights of women and minorities. It has undertaken this mammoth effort by requesting numerous jurisdictions to reopen consent decrees which provide for the hiring of women and minorities. The basis for this unwarranted and radical action is the United States Supreme Court decision *Memphis Firefighters Local 1784 v. Stotts* (citation omitted). In that case the Court addressed the question whether a district court could modify a consent decree covering hiring and promotion practices which would require that white employees with more seniority than black employees be laid off in order to comply with the percentage of black employees to be hired under the consent decree. The Court held that the district court "exceeded its powers in entering an injunction requiring white employees to be laid off, when the otherwise applicable seniority system would have called for the layoff of black employees with less seniority." (104 S. Ct. at 2576)

William Bradford Reynolds, Assistant Attorney General for Civil Rights is a principal player in the Administration's attempt to "undo" approximately 53 consent decrees across the country. It is the position of the Department of Justice that the *Stotts* decision prevents courts from ordering perferential layoffs, or disruption of any bona fide seniority system unless the plaintiffs are specific victims of discrimination. Moreover, the Justice Department asserts that only "make whole relief for actual victims of discrimination" is permitted under *Stotts*.[4]

The position of the Justice Department has not been adopted by the courts. Prior to the *Stotts* decision appellate courts upheld court-ordered or approved preference plans. Post-*Stotts* cases have restricted the application of the Supreme Court's decision to the facts of that case. Indeed every appellate court that has faced some aspect of the *Stotts* decision has not hesitated in ordering and approving race-conscious affirmative remedies despite the fact that the beneficiaries of such remedies are not specifically identifiable victims of discrimination.[5]

What is most unbecoming about the Justice Department's position on this issue is its manifest misrepresentation of the state of the law. Its attempt to so broadly construe the *Stotts* opinion is simply disingenuous and inaccurate. The Justice Department seems to have no bounds in its quest to change the law to conform to the Administration's obscure notions on affirmative action. It is certainly unsettling to know that the Civil Rights Division of the Justice Department, once a driving force in the area of civil rights, strives not to promote the civil rights of women and minorities, but rather endeavors to impede such rights.

IV. CONCLUSION

CWL and the ELC strongly support affirmative action, including goals and timetables for women and minorities. We object to any changes in the 50 consent decrees reached after good faith negotiation between local jurisdictions and the federal government. Now is not the time for backsliding and reaction. The goal of fair treat-

---

[3] For an engaging discussion of the historical context of Executive Order 11246 see "Employment Patterns of Minorities And Women In Federal Contractor and Noncontractor Establishments, 1974-1980": A Report of The Office of Federal Contract Compliance Programs.

[4] See *A Defense of the Reagan Administration's Civil Rights Policies, New Perspectives*, Vol. 16, page 34 (Summer 1984); the New York Times June 14, 1984 edition.

[5] See *"Stotts:* The Day After—Defending Race-and Sex-Conscious Employment Preference Plans," Susan Goodkin, April 1985. (This is an unpublished article and can be made available upon request.)

ment for all Americans is fundamental to a healthy society. We look to the future, not a rerun of the inglorious past.

Mr. MARTINEZ. Thank you Ms. Shiu. We will next hear from Mr. Henry Der, Chinese for Affirmative Action.

STATEMENT OF HENRY DER, EXECUTIVE DIRECTOR, CHINESE FOR AFFIRMATIVE ACTION

Mr. DER. Thank you, Mr. Chairman. Congressmen Martin and Hawkins, my name is Henry Der. I am the executive director for Chinese for Affirmative Action, which is a voluntary membership supported civil rights organization based in the San Francisco Bay area. As a civil right organization we have engaged in both legal and administrative actions to secure equal employment opportunities for members of our community; and also, for the past decade, we have been a subcontractor of JTPA and its predecessors, CETA and Manpower Training.

I come before this subcommittee to urge this subcommittee and, ultimately, the House of Representatives, to launch a national survey of the 50 local jurisdictions that have a consent decree with minority groups, with Federal Government, and with local jurisdictions for this one specific reason.

It is my firm belief that Assistant Attorney General, William Bradford Reynolds, has consciously spread evil, misinformation, and emotionalism against protected groups in America who badly need affirmative action remedies.

The city and county of San Francisco in 1979 entered into consent decree with Chinese for Affirmative Action, NAACP Western Region, San Francisco NOW, the League of United Latin American Citizens, and Officers for Justice—a predominately black police officer association in the police department—to improve hiring and promotional opportunities in the San Francisco Police Department.

A lawsuit was filed by the group that I have just cited in 1973; and in 1977 the U.S. Department of Justice filed its own lawsuit against the city and county of San Francisco for discriminatory hiring and promotional practices in the police department.

A consent decree was fashioned in 1979; and I believe that if this subcommittee were to look at our consent decree, along with other consent decrees, I think that an effective national strategy and argument can be made to rebut, counteract, and to deny the kind of public forum that Mr. Reynolds has been so successful in establishing and achieving against affirmative action programs.

In the consent decree that San Francisco is engaged in, the consent decree states quite explicitly, and I quote:

> The hiring objectives set forth here in the consent decree are goals, not quotas; and as such are subject to the availabilities of qualified applicants. Nothing stated herein shall be interpreted to require the hiring or promotion of unqualified persons.

The consent decree that I am referring to established a long-term hiring goal of 45 percent minority representation in a police force that has responsibility to protect the livelihood of a city that has now over 50 percent racial and ethnic and minority interests.

Second, this consent decree puts tremendous emphasis on forbidding any test, qualifications, standards, or other procedures within

the police department which will have an adverse disproportional impact on minorities and females in their hiring and promotional considerations.

And the consent decree provides specifically that when the police department wants to propose any changes or procedures, it must get the clearance of all the parties concerned.

Third, and maybe more importantly, there is a heavy responsibility and obligation on the part of the city and county of San Francisco to engage in extensive recruitment practices in order to ensure an adequate applicant pool of minorities and women. In fact, as a result of this consent decree we have had a 60-percent minority applicant pool goal, and a 30-percent female applicant goal for every recruitment drive that has been launched since 1979.

What has been the net result of these particular efforts? In 1979, prior to the enactment of the consent decree, the San Francisco Police Force was 85.8 percent white and minorities represented only 14.2 percent. Given the tremendous effort on the part of the plaintiff organizations, representing every racial and ethnic minority group, and women's group, we have begun to experience a positive trend of integrating the police force so that today the police force is comprised of 74 percent whites and 26 percent minorities. In other words, one out of every four police officers today in San Francisco is a member of a racial or ethnic minority group.

Also, if we look at the special racial and ethnic breakdowns, we have been for every racial group—black, Hispanic, Asian—there has been a discernible, measurable increase in the representation of these specific racial and ethnic minority groups.

In 1979, blacks only represented 6.6 percent of the police force. Today they represent 8.2 percent. There has been a net gain of 50 additional black police officers. For Hispanics, the representation in 1979 was 4.6 percent of the total work force; today it has doubled to 9.9 percent. It has been a net gain of 100 additional Hispanic police officers. For Asians, we probably have identified the greatest advancement. In 1979 there were only 48 Asian police officers of 1,500 police officers. Today we have 164 Asian police officers in the San Francisco Police Force, representing 8.5 percent of the police force. In other words there has been a net percentage increase of 241 percent of Asian police force.

And I would mention at this juncture that prior to the formulation of consent decree, our organization was asked by the Justice Department, "Do you really believe that Asians are interested in a career in law enforcement; and that you can even meet your recruitment and hiring goals?" And at that time we said, "Absolutely, we have individuals in our community who are interested."

And I think that the results we have today to date will demonstrate that the number of blacks, Hispanics, and Asians in the San Francisco Police Force are equally distributed so that we have succeeded in breaking traditional stereotypes against Asian-Americans that we are only interested in being doctors and engineers and accountants; but there are members of our community who are interested in diverse occupational opportunities.

One other aspect that I would hasten to add is that within the Asian representation on the police force, we have at least 20—if not more—bilingual police officers who were identified as a target-

ed group in the consent decree, because we identified for the Justice Department and the courts that there was a severe language—English language barrier—in San Francisco. So, in 1981-82 our organization, in conjunction with the police department, launched a specific recruitment for bilingual police officers; and we recruited over 200 interested applicants and established an eligibility list of over 120 bilingual candidates for over 20 positions.

So, I think that if consent decrees are given the opportunity to work, they can succeed in achieving any work force—whether it is in the public or private sector.

Having stated the improvements though that we have gained so far, we are still far from attaining our long-term goal of 45 percent minority representation; because today we have only 25 percent of minority representation. We still have a good 4 years left on the consent decree.

So for that reason, if Mr. Reynolds is successful in getting these consent decrees turned over, it will be a tremendous step backwards for minorities and women in San Francisco and for other jurisdiction in not only employment opportunities, but providing adequate public services for citizens in these numerous, numerous metropolitan areas and jurisdictions.

Now, I would like to turn your attention to specific affirmative action efforts in the JTPA Program. I believe that much remains to be done in the JTPA Programs to promote affirmative action programs, and to use the JTPA Program as a vehicle to demonstrative that Executive Order 11246 has been a workable instrumentality to integrate the work forces of the private sector.

Today, in San Francisco, under the title II(a) program, roughly $4.4 million are spent for training efforts to train economically disadvantaged individuals in the city and county of San Francisco. And, interestingly, in the targeted job search division, which would be the direct placement programs unlike the classroom training programs, targeted search programs receive roughly 10 percent of the JTPA moneys that are allocated to the city and county of San Francisco.

And the distribution of these funds in our city is fairly equally distributed among blacks, Asians, disabled, veterans, women, ex-offenders, and young people. And interestingly, for every dollar that is invested in these direct placement programs that works with private employers on affirmative action basis, it returns over $11 in earned wages. In other words, the benefit cost factor is in the neighborhood of 11.38; and I think that that kind of success rate speaks to two elements.

No. 1, these programs are cost effective. But more importantly, it begins to put the training and counseling and job related requirement responsibilities on the poor themselves.

I believe that if JTPA is to be successful and the private industry council were to play the role that I think Congressman Hawkins has set its role to be, then they have to bear the burden of training some of these people. I think it is important that we have classroom training, OJT, and work experience to work with adults and youth. But the private sector has to bear that responsibility; and I think one of the ways is with these direct placement programs.

They can then bear the burden of their affirmative action obligations as Federal contractors.

And without going into a lot of details, it has been clearly documented that these private employers use direct placement to meet their affirmative action obligation; and it has worked very well. And I believe that if we were to do some more study and documentation that much more can be done to enhance affirmative action efforts and to show that Executive Order 11246 is a very progressive and workable strategy to meet the needs of employers and to meet the needs of minority communities.

The third component—or third element that I would like to close with my testimony is with regards to Asian-Americans.

There is a growing attention placed on the growing Asian-American population throughout the United States, and in particular in California. Close to 50 percent of all Asian-Americans who live in the United States now live in California; and also we are the home for many immigrants and refugees.

There is a dangerous trend to consider Asian-Americans not as a minority group. And there have been efforts, I believe to exclude Asian-Americans to being beneficiaries in JTPA programs, in educational programs, and possibly even in higher educational programs. And I would implore this subcommittee, along with their colleagues in the House, to resist any effort to exclude Asian-Americans as beneficiaries in affirmative programs because to do so, I think, would jeopardize very strong coalition efforts that have been established throughout the United States, and particularly in California.

And also, I think it would diminish the amounts of monies that are attracted to Federal and State programs in the State of California. And I believe that by having—by recognizing Asian-Americans as a bona fide minority with particular social, economic, and educational disadvantagement, that we can prevent these racial minority groups within the Asian-American community from having undue reliance on general assistance or AFDC.

I think it is just as important to keep people off the rolls as it is for those people on the rolls to provide these training programs.

Thank you very much.

Mr. MARTINEZ. Thank you, Mr. Der. Would the Asians like to join the Hispanics as one coalition of minority? I understand by an article in the Washington Post that in the year 1990, Asians and Hispanics will be the largest combined minority groups in the State of California.

Mr. DER. We are glad to join anybody at any time, either now or in 1990, to show a strong cohesive effort among all groups; because I think that it is vitally important that Hispanics, blacks, and Asians stay together to fight together for equal employment opportunity, because I think the diminution—in fact, I know that one of the strategies by the Reagan administration is to argue that Asian-Americans have demonstrated they have particular cultural and social patterns. And, therefore, they don't need affirmative action; and why don't blacks and Hispanics adopt these cultural and social patterns. If they were to do so, they don't need affirmative action programs, either JTPA or higher education programs or bilingual education programs.

Now I think it is very dangerous because there still is discernible, identifiable pockets of disadvantagement among all our respective communities; and it is critical that we support JTPA programs, educational programs for kids K through 12, and even for higher educational programs.

I know that Congressman Hawkins right now is authoring and deliberating the Higher Education Act. And I hope that there will be consideration to—that will be given to include Asian-Americans as a minority group, because I think Asian-Americans are excluded. For example, State universities such as Dominguez Hills, East Los Angeles, San Jose State, San Francisco State will lose its competitive edge in fighting for title III moneys if Asian-Americans are excluded as a minority group. So, in closing again, we are always ready to join with other minority groups to fight the fight.

Mr. MARTINEZ. You might be interested to know that Congressman Norm Minetta, has already talked to Chairman Hawkins about that very subject.

Mr. DER. Yes.

Mr. HAWKINS. And Mrs. Boxer and Mrs. Burton, and several others will help.

Mr. DER. Yes, we have been in contact with Congresswomen Sally Burton and Barbara Boxer. It is my understanding that they have gotten a very friendly reception from you, Congressman Hawkins, to make the appropriate——

Mr. HAWKINS. I think there is some misunderstanding, whether Asian-Americans would benefit from these programs. I think that they were looking at only one section of the proposal. But once a university or a college qualifies, then obviously there is no distinction made in who benefits. So the benefits would obviously be made available.

However, in one section—and in community colleges there is no distinction whatsoever, obviously. And community colleges would benefit regardless. However, the reason Asian-Americans were not originally included whether they are considered educational disadvantaged persons. And in some universities it would be very difficult to show—for example, that Japanese or other Asian-American's are educational disadvantaged.

And this was the original decision. However, I have assured the other individuals mentioned and I assure you that we are now considering the views; and we would not want the fact that there is not a specific mention to be considered, as you have in effect construed it to be—we would not want that intimation to be made. For that reason we have assured them that Asian-Americans will get serious consideration.

Mr. DER. I appreciate your comments very much, Congressman Hawkins. I would just hasten to add that at the present time I either have the privilege or the arduous task of serving on the State commission to review the master plan for higher education. And we are reviewing data that shows that all the minority groups—Asians, blacks, and Hispanics are experiencing tremendous equal educational opportunities in our community colleges. And I think that the title III efforts are well placed and will do quite a bit for our respective communities.

Mr. MARTINEZ. Very good. I would like to direct the question to you first; but I want both Ms. Shiu and Ms. Bustillos to answer also.

You stated a number of percentages—percentage increases in the law enforcement agency in San Francisco. They sound dramatic, there has been a dramatic change in the percentages of people employed by that police department. I couldn't help but think—did that deny an individual who wasn't a minority? Was anybody dramatically pushed out of place or disrupted from a career that they might choose?

Mr. DER. Absolutely not, Congressman Martinez. The basis of the achievements that have been gained has been based primarily on the initial efforts to establish a qualified applicant pool, meaning there were aggressive, vigorous efforts to recruit minorities and women for these positions in the police department. But once they applied, they had to go through the same tests, the same interviews, and go through a neutral ranking based on their performance on the tests as whites went through the same procedures.

In other words, once they went through the examination process they were not bumped up on the eligibility list——

Mr. MARTINEZ. They competed on an equal basis.

Mr. DER. Absolutely. They competed on a—no one was taken out of rank order because of their race or ethnicity. And what we did succeed in doing was that we achieved in eradicating certain discriminatory elements within the testing and examinations procedure so that those—the elimination of those elements, I think, benefited both whites and minorities, because we got better qualified whites as we got better qualified minorities and women within the police department.

Mr. MARTINEZ. Just a—thank you, Chairman.

Mr. HAWKINS. Could I ask a special favor? I have a witness on the next panel, Mr. J. Stanley Sanders, who has an urgent board meeting to attend. I know you have a time schedule. I would not ask any questions if we could hear from him and allow him then to leave so that he can make his board meeting.

Mr. MARTINEZ. If there is no objection. You don't mind, do you?

Ms. SHIU. No objection.

Mr. MARTINEZ. All right.

Mr. HAWKINS. If I may.

Mr. MARTINEZ. Don't leave, I want to hear the reflection from your experiences on the questions I asked earlier.

Mr. HAWKINS. Well Stan and I team up and struggle in the same community, although his time is much later than mine. And I would not want him to leave without being given this privilege, because it is very personal to me. Thank you.

Mr. MARTINEZ. Much later than you? Are you that old?

Mr. HAWKINS. Much later. Well, much later in time.

Mr. MARTINEZ. Mr. Sanders, why don't you proceed.

STATEMENT OF J. STANLEY SANDERS, ESQ., SANDERS & PICKERSON, ATTORNEYS AT LAW, CHAIRMAN OF LOS ANGELES COUNTY UNITED WAY'S SPECIAL TASK FORCE ON YOUTH UNEMPLOYMENT

Mr. SANDERS. Thank you, Mr. Chairman, Congressman Hawkins, ladies and gentlemen. My name is Stanley Sanders. I am an attorney, but I appear this morning in my capacity as chairman of United Way—Los Angeles County United Way's Special Task Force on Minority Youth Unemployment.

In 1983, United Way's Discretionary Funds Distribution Committee awarded a grant of $50,000 to its planning division to research and develop options for United Way's involvement in the issue of minority youth unemployment. Part of the grant was used in December of last year to commission an assessment report by Dr. Monte Perez of Cal State, Los Angeles, and Mr. Perez was charged with three objectives: To examine the current agencies in the employment development area; second, to develop a conceptual role useful to an agency such as United Way and its member agencies to participate in reducing minority youth unemployment; and to write a report on his findings.

That report was concluded in January of this year and is available to the committee.

In June of this year, United Way then convened a technical committee composed of representatives from legal, government, community based organizations, business, industry, and labor and used the background of the Perez report to spell out a number of different options available to it.

And the question really was:

> Should United Way become involved in minority youth unemployment? And if it should, how could United Way most effectively intervene in the current system of employment services to enhance the quality and availability of employment opportunities for minority youth?

The technical committee agreed to focus on the various concepts set forth in the Perez report which called for establishing a system through which youth could be directed to employment opportunities or training programs.

United Way has in place a delegate agency referred to as "Info Line" which provides to the caller a number of referral services that are available to it; but did not include in any specific or emphatic way employment services.

So, I was asked by Roy Anderson of Lockheed, and the chairman of United Way, to chair a task force, and to bring together Judy Wollan who is the jobs coordinator for the Los Angeles Chamber of Commerce, Alberto Hernandez from ARCO—an attorney there, and Dan Long of General Telephone to see if the task force could come up with some specific recommendations on how United Way might facilitate better the partnership between the private and public sector.

And it is through this task force that we hope to accomplish the following goals: To enhance the availability of employment opportunities through existing employment training programs countrywide to reduce minority youth unemployment; to create better communications and networks between service providers, business,

industry, and labor. There are something like 50 different agencies, some funded by public sources, some private sources that operate within Los Angeles County—that touch on the subject of minority youth unemployment. We have found, so far, that they really don't know each other—that there is very little coordination.

For example, United Way's Info Line doesn't even have an 800 number. And accessing the system is probably one of the biggest problems we have now in delivering the opportunities that now presently exist in job training and in job opportunities in Los Angeles County.

And, third, to inform youth of employment training opportunities through public media awareness and access to their appropriate training programs. I had two very interesting experiences, one personal and one simply a gathering of information. But in April of this year, we took the Bureau of Labor Statistics for the unemployment for minority youth unemployment in Los Angeles County, ages 16 through 19, and 19 through 24. And something happened in the 9-month period ending March, 1985. We still haven't determined what it is; but white minority youth unemployment was relatively stable around 16 percent for that entire period. So, was Hispanic unemployment, around 22 to 23 percent. Black minority youth unemployment went from 32.6 percent to 63.2 percent. We don't know whether that was a statistical aberration, or whether it was bad reporting—computer error; but it is confirmed by the personal experience I had of three nephews, all of whom fall within that category. All of whom were employed throughout 1984; all of whom are now unemployed, and fit within that statistical category. Something is wrong. So, the leadership of the Minority Youth Unemployment Task Force does believe that minority want to work; but because of a lack of information and access to the job market these youths have been discouraged, and some have given up.

We hope to address that need by creating an opportunity for employment programs to work better.

Thank you very much.

[The prepared statement of Stanley Sanders follows:]

PREPARED STATEMENT OF J. STANLEY SANDERS, ESQ.

In 1983 the Discretionary Funds distribution Committee awarded a grant of $50,000 to the Corporate Planning Division to research and develop options for United Way's involvement in the issue of Minority Youth Unemployment.

Part of the grant was used in December of 1984 to commission an Assessment Report by Dr. Monte E. Perez of California State University - Los Angeles. Dr. Perez was charged with three objectives:

> One, to examine the current stakeholders in the employment development arena.
>
> Two, to develop a conceptual role useful to United Way, Inc. and its member agencies to optimally participate in assisting in reducing minority youth unemployment.
>
> Three, to write a report on his research and options for United Way.

Dr. Perez concluded his responsibilities in January 1985 by submitting a report to United Way entitled - Minority youth unemployment and United Way of Los Angeles: Strategies for Future Actions.

In June 1985 United Way convened an ad hoc Technical Committee composed of representatives from local employment development agencies, community based organizations, business, industry and labor. The Technical Committee used the background information in the Perez Report, including the 7 options

identified for United Way's role on this issue to address a basic question:

> "Should the United Way become involved in minority youth unemployment, and if so, how could United Way most effectively intervene in the current system of employment services to enhance the quality and availability of employment opportunities for minority youth?"

The Technical Committee agreed to focus on the concept of option #3 of the Perez report, which called for establishing a system through which youth could be directed to employment opportunities or training programs.

The committee proposed a Task Force be formed to establish an information and referral service pilot project using INFO LINE, a United Way agency.

I was asked by Roy Anderson to Chair the Task Force which is currently being formed to develop and implement the project. I am pleased that some outstanding individuals have agreed to serve with me. Vice Chairs of the Task Force are: Judy Wollan of the Los Angeles Chamber of Commerce; Alberto Hernandez of ARCO; and Dan Long of General Telephone of California.

Through the pilot project the Task Force hopes to accomplish the following goals:

1. To enhance the availability of employment opportunities through existing employment training programs County-wide in an effort to reduce minority youth unemployment.

2. To create better communications and network linkages betweer the service providers, business,

industry and labor.

3. To inform youth of employment training opportunities through public media awareness and access to the appropriate training programs in their neighborhoods.

In April of this year the Bureau of Labor Statistics reported unemployment rates for minority youth in Los Angeles County age 16-19 as being 22.2 percent for Hispanic youth and 63.2 percent for Black youth.

The Leadership of the Minority Youth Employment Task Force believe that minority youth do want to work but, because of a lack of information and access to the job market these youth have become discourage and some have even given up. We hope to address that need while creating an opportunity for employment training programs to work together.

Mr. MARTINEZ. I wish you all the luck in the world. You know I have a strong conviction that this kind of coordination will really help tremendously, because I believe with that kind of coordination more people will become aware of the jobs that are available, and of the training needed to place people in those people.

I don't think there has been enough done either on a local or a national scale on getting that kind of information out.

I think communication is the beginning of that. You have many employment and training agencies that don't even know what each other is doing or working on in that field. Good coordination efforts might fill a lot of those gaps. I would like you to comment on that.

Mr. SANDERS. Well, one interesting thing that we found when we began our task force work is that there is no index, no catalog of the existing agencies. And we are about the task now of just putting that together to find out where they are, to find out what they purport to do, and what they see as their role in providing the services that they purport to provide.

And the information function is very important. We have the technology to do it. We are not making as effective use of that technology in this particular area as we should; and I think that what we will find is that we will want to explore the opportunities for application of new technology; particularly information systems and retrieval systems and so forth, particularly to Los Angeles County.

Mr. MARTINEZ. Mr. Hawkins.

Mr. HAWKINS. Well, I gagged myself by yielding my time.

Mr. MARTINEZ. No; go ahead.

Mr. HAWKINS. I just simply suggest that when Mr. Der and you put that coalition together, you allow Mr. Sanders and me to be a part of the coalition group.

Mr. MARTINEZ. Thank you, Mr. Sanders.

Mr. SANDERS. Thank you very much, Mr. Chairman, for taking me out of order, and to the other members of the panel.

Mr. HAWKINS. Very fine testimony, Mr. Sanders.

Mr. MARTINEZ. Now, the reflection that I would like is on that insinuation by Edwin Meese and Brad Reynolds that somehow, when you enforce affirmative action you deny people and push people out, or cause what they call reverse situation.

Now, in your experiences, have you ever witnessed such a situation. Would a you care to comment on Mr. Meese's and Mr. Reynolds' attitude about affirmative action.

Ms. SHIU. Well, I would like to address that issue. One of the notions about affirmative action that I would like to dispel at the outset is that somehow the people who actually get jobs—are the beneficiaries of it—are somehow substandard. That is not the purpose of affirmative action and it never has been.

The purpose of affirmative action is to require employers to take off their blinders, to hire people who do not look like themselves, and to recognize that there are certain groups of people who have a history of discrimination. And the reason why there are mostly white males in upper management in executive positions and what have you, it is because of that class discrimination, which is why job training is so important to make sure that the applicant pool is always a qualified applicant pool, and it represents every minority group.

In addition, what I would like to say is that Brad Reynolds' notion really disregards the fact that class discrimination went on as class discrimination without regard to specific individuals. To require now that the remedy be limited to those people who are the identified victims of discrimination is totally absurd; it just—the remedy does not fit the problem.

And third, I would like to say that the Federal Government must be the model employer. If the Federal Government cannot be the model employer, than how can it expect private industry to go out of its way to perform the essential functions of affirmative action.

Mr. HAWKINS. Exactly. Ms. Bustillos.

Ms. BUSTILLOS. Yes, well I think when you analyze the very concept of what a goal or a target is, that is not a quota or a certain amount of minorities or women must be placed in positions. That is a device for the employer to analyze to see where are their employees going? Are they being promoted up? Are they being hired? And if they are not, to analyze that employment system to see what part of that system is stopping those minorities from moving up or coming in. And a goal allows for qualifications to enter in; that is one of the distinct differences between a quota and a goal—is that qualifications of the individual minority and/or women are considered in the same way as anybody elses qualifications would be considered.

And in my experiences at MALDAF, basically I deal with goals and consent decrees, employers are willing to enter into consent de-

crees with goals because it allows them that flexibility to hire and promote those minorities that are qualified.

It is not going to do any good for business to have unqualified individuals of whatever race or sex. And that is the point that comes across from employers is that they want qualified minorities and women in those positions because that is what is going to keep up productivity, and that is what is going to keep the profit margin there.

So, that has been my personal experience. And just to add one note that Professor Leonard—he based his study on OFCCP study, which was based on 77,000 establishments, 20.8 million workers—and on that study from 1974 through 1980 his statistical evidence and findings were that affirmative action had not induced reverse discrimination.

Mr. MARTINEZ. Let me ask my staff director a question. Do we have a copy of this?

Mr. JENSEN. Yes, we do.

Mr. MARTINEZ. We do. All right, thank you. Thank you very much. I would like to ask Mr. Kilbert, can you give me some examples of youth training programs that could be implemented with the criteria that you were outlining?

Mr. KILBERT. We could. There are the ones that we identified that were—we tried specifically not to get into naming a particular program. We said these are the elements that make a good program. There are programs out there that have some of the elements and some do not.

For example, in San Jose you have the SETS Center for Employment and Training that has some programs that have some of the very elements that we have here; and they call theirs Job Start. And those elements—not all of them, but many of them—are there; and it is a good program.

There are other programs in Los Angeles County; there are programs in Riverside County; there are numerous programs throughout the State you could identify.

We are trying to identify the components that make good programs and trying to infuse those in all programs so they all serve you.

Mr. MARTINEZ. Evidently you are trying to get the positive aspects of those programs into one program that would serve everybody.

Mr. KILBERT. Exactly.

Mr. MARTINEZ. Very good. Thank you very much. And I would like to thank all of you for appearing before us today and testifying. Your testimony is invaluable to us. Yes, Mr. Hawkins.

Mr. HAWKINS. On the question of successful programs, this committee, as early as 1979, instructed the experiment with various programs affecting youth. And on the basis of those studies we identified good programs. They are in existence. I am surprised the State council doesn't know about them.

When we passed the Job Training Partnership Act we instructed the operators to use 40 percent of the funds for youth unemployment; and that isn't being done. I hope you take back to the council a dissatisfaction of at least some of us, that we know enough now to do something about youth unemployment. We just aren't

doing it. We refuse to spend money to do it. We refuse to spend the money which is already appropriated to do it. And I think it is a disgrace that we have people engaging in studies and saying, "We don't know what to do." That isn't true.

Now, if the State council cannot do it, if you would consult with us, we will show you how to do it. It may take a few dollars, but I think Mr. Der well said that if you don't do it you are going to have to spend a lot more money than what you are now spending; and you are going to have to spend some money in order to keep some order in some of these cities because these young people are not going to wait for any more studies.

And I think the seriousness of it should be undertaken. The problem should be undertaken by the State council and by all of those charged with that responsibility under the Job Training Partnership Act.

I just wanted to get that off my chest because I get sick and tired of this problem that we can't do anything about it because we don't know what to do.

Mr. KILBERT. I think we would agree with you, and the council wanted to say that they wanted to take a positive stand, and this December they are adopting their resolution to take that stand; and they will adopt their report, and then they will direct all programs to try and meet those very things that you have identified.

The council is aware of the programs that you have communicated to them.

Mr. HAWKINS. Well, we'll certainly be behind you if you do it.

Mr. KILBERT. Thank you.

Mr. MARTINEZ. Thank you again for appearing before us. Our next panel will consist of Ms. Julia Lee, Julia Lee is the Service Employees International Union Local 99 trustee; Ms. Carmen Estrada, Counsel for Western Center for Law and Poverty; Mr. Davis Rodgers, president of Watts Chapter of NAACP, Mr. Frank J. Quevedo—I was a product of this—the time in America when people didn't believe that people who had another language should maintain it, but should learn English only. Does that sound familiar.

Mr. QUEVEDO. I have heard your Spanish, Marty, and I would agree.

Mr. MARTINEZ. Anyway, Frank is from the Coalition of Southern California Personnel Organizations. I can't speak English either. And we would like to have Mr. Tommy Roberts join this panel.

STATEMENT OF JULIA LEE, TRUSTEE, LOCAL 99, SERVICE EMPLOYEES INTERNATIONAL UNION

Ms. LEE. Good morning to the chairman and Congressman of this subcommittee. My name is Julia and I am from Local 99, Service Employees International Union.

I didn't get my report back from the man who put it together, so, briefly, I am just going to speak on some highlights of unemployment in the area that we are in.

The unemployment rates in Los Angeles County averaged 7.3 percent during the third quarter of 1985, a drop of 0.1 percent from the prior quarter, and a decrease of 1.4 percent in the third quarter of 1984.

In September 1985, the number of working residents reached 3,663,000 and the highest level since January 1985. The total number of jobs in the county averaged 3,837,600 from July through September 1985, an increase of 2.3 percent of the 85,100 workers from the third quarter of 1984.

In October 1985, seven cities within Los Angeles were designated as labor surplus areas by the Department of Labor, and we have a great employment in South Central and throughout the country; and some of the things we have had a lot of studies on—we have had many programs. But some of the programs haven't really equipped our people enough to be—you know, to be qualified for jobs.

Our children, when they finish high school, some of them cannot even fill out their applications. So they need the common jobs, and they need to know what kind of jobs to prepare themselves for.

In the upcoming year will it be computer science, or what will it be? We need job training programs, and we need to train them well so they can compete in this technology society.

So I will get my report in, but I didn't get it—this man didn't get it back to me this morning, and I didn't know I was on this morning. We thought it was tomorrow.

Mr. HAWKINS. Fine. We appreciate your agreeing to appear this morning; and also your visit to Washington some time ago.

Ms. LEE. Yes, and we have been working on putting together a tutorial program. I have about 15 people, and we will be contacting your office to help us get it set up; so we are going to go into the schools and kind of work and help prepare the children.

Mr. HAWKINS. It is very, very practical and we appreciate your help.

Ms. LEE. Thank you.

[The prepared statement of Julia Lee follows:]

PREPARED STATEMENT OF JULIA LEE, SERVICE EMPLOYEES INTERNATIONAL UNION, LOS ANGELES, CA

Mr. Chairman and members of the Subcommittee, I am Mrs. Julia Lee, Trustee for Local 99 and Chairperson of the Committee on Political Education (COPE), Service Employees International Union, Los Angeles, California.

I would like to thank you and the committee for your invitation to express our views on Job Training and Employment.

The importance of federally funded job training under the Job Training Partnership Act (JTPA) becomes increasingly evident with the total absence of any competing job training available from other sources. In effect, since the "programatic demise" of the Comprehensive Employment Training Act (CETA), the limited job training available under JTPA is "the" only employment training program available to retrain the unemployed and equitably serve all persons..

Job training is a critical tool which is necessary to those persons who have been laid off due to plant closures, reductions in force, or have never been employed and are now, faced with having to work. Job training gives to these persons the helping hand they need. Further, it provides a vehicle for independent family living.

The lack of job training results in economic deprivation. This means more homeless people will emerge, more children will suffer malnutrition, prices will sky-rocket and street crimes will escalate.

Employment discrimination has the effect of depriving certain areas of industry and the use of valuable human resources.. JTPA, a regulated funded program, will allow underpriviledged Americans to join hands with the workforce and allow the employers to form public-private relationships that will enhance productivity and held alleviate employment discrimination.

The current administration appears insensitive to the needs of the disadvantaged and the protected classes of people. The budget-cuts have been primarily to social programs.

The JTPA and shelters for the homeless are only a few of the needed social programs that have a positive effect in aiding the disadvantaged. Benefits to the protected classes including children and the elderly have been cut tremendously.

Without affirmative action there is no way of assessing whether these persons are actually benefitting from the few remaining available programs.

An agressive monitoring of the JTPA and review of the Service Delivery Areas to determine whether equitable job training is provided on the local level is needed. Without such monitoring, we cannot be certain that local Service Delivery Areas are expending precious training funds on those groups most in need of benefitting from these services.

It is essential that the State JTPA Office engage in this activity and ensure that local Service Delivery Areas are serving local disadvantaged populations. In order to monitor effectively it is necessary that affirmative action goals and timetables remain in effect.

It is my belief that job training programs provide many persons with an opportunity to be trained, employed, to earn a steady income and to become productive members of the community and society at large. Without social programs, many people would not otherwise be afforded any opportunity.

We must give the need for employment and employment opportunities through training and education a higher priority.

I respectfully urge you, as members of the United States Congress, to make as strong a commitment to our unemployed citizens, as you do to our military defense.

Thank you.

56-999 O - 86 - 4

Mr. HAWKINS. The next witness is Ms. Estrada.

STATEMENT OF CARMEN ESTRADA, COUNSEL, WESTERN CENTER ON LAW & POVERTY

Ms. ESTRADA. Good morning. Thank you Congressman Hawkins. I am with the Western Center on Law and Poverty here in Los Angeles, and we are a statewide backup center and represent poor people through the State with local cocouncils of legal aid services.

Since I am submitting the written comments I am going to summarize my comments solely relating to the job training aspects of the JTPA.

The last time I was before the subcommittee was right after the JTPA act went into effect in late 1983. At that time Los Angeles County had decided to utilize the JTPA moneys in order to provide job training solely for general relief recipients—local country welfare recipients. And as a result we filed one lawsuit in superior court, and a different administrative complaint before the Department of Labor. Fortunately, both of those claims have been completed and we are happy to say that now we are basically satisfied with the way Los Angeles County is providing its services.

Essentially, they have since decided to follow what the JTPA intent is, and are currently providing equitable services to all participants. One real problem that we had in bringing these lawsuits was that there is no private right of action under JTPA. I think that you would find a far greater ability of local—either attorneys or representatives—to enforce rights under JTPA, and ensure that those provisions under JTPA are being met if individuals have the tool of being able to have the private right of action.

As a result, it was necessary for us to bring two competing actions which made it a bit cumbersome but, fortunately, since we were so right, we were unable to fail.

California has recently enacted a statewide workfare program called GAIN, Greater Avenues for Independence, I will concurrently call it GAIN and Workfare. It will be implemented sometime next year. A third of the GAIN budget, the overall budget, comes from JTPA programs. If any job training is going to take place within GAIN it will come through JTPA. I think what this does is it really makes the provisions under JTPA for providing job care, job training services, child care and such—all that much more important mainly because there will be a funneling of thousands of AFDC recipients throughout the State. And if they don't find a job they will then be put into the preemployment or workfare component, which as advocates of welfare recipients we do not agree with the workfare component but we do strongly support the job training component.

The California Legislature has enacted a JTPA supplementary statute entitled the "Family Economic Security Act." One of the real gains of the FESA, the Family Economic Security Act, is that it paints in more specifics in terms of what the local JTPA, statewide Job Training Coordinating Council and PIC's are supposed to be doing.

One of the problems that we have had is with the local enforcement of FESA as it relates to PIC membership. In the JTPA law,

the PIC membership was fairly—there are fairly broad strokes in terms of who is supposed to be on the local PIC—and it consists of half plus the chair from the private sector; and then some other groups are also mentioned, such as unions, labor, and educational components.

The State legislature decided to go one step further and required, not just one CBO but two CBO's required a child care resources person to be on the PIC, and additionally made some recommendations that there be some ethnic and sex balance—also, minority business people be brought on the PIC.

Unfortunately, as a result of the chair of the statewide Job Training Coordinating Council requesting an opinion from the Attorney General's office, the opinion came out stating that the State law was inconsistent with the Federal JTPA law. We feel that that is incorrect. The one county that we may soon be bringing an action against is Contra Costa County up North, where the PIC executive director has flatly not included additional PIC members based on the State law. We feel it is simply a supplementation, you can still have what the Federal law requires, and that would be the 50 percent plus one from the private sector; and it would not be a difficult thing to be able to include.

In addition, perhaps a recipient who has gone through the job training and extra CBO and child care resources person on the PIC. In fact, we were very surprised that they flatly refused our request to supplement the PIC membership.

What this raises is our deep concern about the oversight with the local—the State JTPA office—which is, I guess, basically the staff of the statewide Job Training Coordinating Council.

No. 1, to make such a request it would find the State law inconsistent with the Federal law. And No. 2, to absolutely fail to enforce the State law—in other words to OK JTPA plans on the local level without any consideration about what the State law also requires.

We strongly support the State statute; we don't think that it is inconsistent. We feel that it does assist to humanize the PIC and to ensure that various other members of the community are allowed to join the PIC oversight. And, as I mentioned earlier, this becomes even much more important with the recent GAIN workfare law since one of the new members that the State law requires is an actual recipient; and it would be very useful to have their input on the county plan development.

Now that we have completed the first year of JTPA funded job training and are entering the second year, another thing that the statewide JTPA offices can and should do is to really aggressively monitor and review the equitable service segments and targets of the various SDA's. If it is something that they are doing, I would be very glad to hear about that.

As advocates on the local level, it is difficult for us to get a copy of each SDA's plan and to review it since it takes a great deal of time and being legal services funded we have limitations in terms of what we can do without actually having a lawsuit at hand.

Thank you very much.

[The prepared statement of Carmen Estrada follows:]

PREPARED STATEMENT OF CARMEN A. ESTRADA, WESTERN CENTER ON LAW & POVERTY, LOS ANGELES, CA

CONGRESSMAN MARTINEZ AND MEMBERS OF THE SUBCOMMITTEE:

My name is Carmen A. Estrada. I am an attorney with the Western Center on Law and Poverty in Los Angeles, California. On behalf of the Center and our clients we welcome the opportunity to present our comments on Job Training and civil rights.

JOB TRAINING

The importance of federally funded job training under the Job Training Partnership Act (JTPA) becomes increasingly evident with the total absence of any competing job training available from other sources. In effect, since the demise of the Comprehensive Employment Training Act (CETA), the more limited job training available under JTPA is the "only game in town."

As local municipality and Service Delivery Areas (SDA) become increasingly strapped for local or federal funds to provide any services whatsoever, there is an increasing focus on the use of job training moneys under JTPA to promote self-sufficiency with disadvantaged populations. Los Angeles County's initial efforts to provide job training only to its local welfare population receiving General Relief in late 1983 led to a lawsuit and the filing of a civil rights complaint with the Department of Labor by our organization and the Legal Aid Foundation of Los Angeles. The lawsuit, Venzor v. Tanaka, challenged the abrupt manner in which the County forced all General Relief (GR) recipients into job training irrespective of their experience and background. The case is now closed, but it took nearly a year's worth of efforts in litigation to stop the County from enrolling primarily GR recipients in its JTPA program to the exclusion of all other groups.

The administrative complaint, Madrid v. County of Los Angeles, was concurrently filed against the County challenging their exclusion of Aid to Families with Dependent Children (AFDC) recipients in the JTPA program, which resulted from the County's focus on GR recipients' job training. We were deeply disappointed at the failure of the State JTPA office in Sacramento to effectively monitor the local SDA's activities. As a result of the State's failure to oversee the Los Angeles program, we found it necessary to file our claim with the Department of Labor. The administrative complaint was settled when all parties agreed to a revision of the County's JTPA plan and their agreement to equitably serve all populations, including AFDC recipients, in the future. We recently completed the first year review of our consent agreement and found that the County was substantially complying with the settlement provisions.

California has recently enacted a statewide job training and workfare program entitled Greater Avenues for Independence (GAIN), which will be implemented sometime next year at the local level. The State included federal JTPA funds as a major component in its program, which will focus on AFDC recipients. Among other things, GAIN provides remedial education and, most importantly, JTPA funded job training and child care services. For those welfare recipients not locating employment through the various supportive and training services, there exists a catch-all compoment euphemistically entitled "pre-employment preparation" which is "workfare": requiring welfare recipients to exchange their labor for receipt of a welfare grant. Much of the success of this statewide program will depend on the successful utilization of its JTPA job training component. Considering the statewide focus on AFDC recipients, it is unlikely that local JTPA programs will be able to focus much of their

56-999 O - 86 - 5

job training on dislocated and/or unemployed workers as allowed by JTPA.

The California Legislature has enacted a JTPA supplementary statute entitled Family Economic Security Act (FESA), which seeks to supplement the broad strokes painted by the JTP Act. One of the provisions of the Act which may be of interest to the Committee is California Unemployment Insurance Code Section 15031. This Section regulates the composition of local Private Industry Councils (PIC) and parallels the federal statute authorizing PIC's, but requires that additional categories of persons be included on the PIC, such as "two community-based organizations including those serving minority populations (with actual minority representatives as appropriate)" as well as "child care resource and referral agencies, and a public assistance recipient who's currently enrolled in, or has recently completed training in, programs funded under this division." In addition to mandating these groups' representation on local PIC's, the statute allows the representation of racial and ethnic groups reflecting the local SDA population as well as represertatives of significant groups of eligible participants and providers of services within the SDA.

We strongly support the State statute which seeks to supplement PIC's without impacting the federal intent that PIC membership be primarily from the private sector. Unfortunately, the California Attorney General, at the request of the Chair of the State Job Training Coordinating Council in 1983, released an opinion which implied that the State statute cited above is "inconsistent" with the federal JTPA law regarding PIC composition. While some counties statewide have followed the State law regarding PIC's composition, at least one county PIC has flatly refused to include PIC members mandated by the State statute. The Contra Costa

County PIC has refused to follow the State law with respect to its PIC composition. Their rationale, apparently supported by the State JTPA office, is that they are only mandated to follow federal law and that their plan has been improved by the State JTPA office without the necessary PIC supplementation mandated by the Legislature. We are deeply disturbed at this County's refusal to follow state law and anticipate that without the State JTPA office's leadership or federal oversight, other counties will join Contra Costa County in limiting its PIC composition. The importance of including various groups on the PIC, including representatives from racial and ethnic groups is self-evident. However, with the development and implementation of the statewide GAIN program, the importance of the PIC in overseeing job training becomes even more important. We do not believe that Congress intended to preclude states from supplementing the federal JTPA where PIC composition is concerned. Again, we are concerned that the State JTPA office will fail to intervene and allow a local PIC to refuse to follow a state law. Unfortunately, the result of this may be additional litigation to enforce the state law and insure that PIC's adequately reflect the local population as the California Legislature intended.

Now that we have completed the first year of JTPA funded job training and entered the second year, we are in a position to evaluate the effectiveness of initial efforts. An aggressive monitoring and review of SDA's to deterine whether equitable job training was provided on the local level is necessary. Proponents of job training cannot review each county plan in the State of California and analyze the target groups and recipients of services. Without such monitoring, how can we be certain that local SDA's are expending precious training funds on those groups most

in need of such services, particularly women and youth. It is essential that the State JTPA office engage in this activity and ensure that local SDA's are equitably serving local disadvantaged populations. Without such a review, the real success of JTPA will remain in question.

AFFIRMATIVE ACTION

The importance of continued affirmative action in both the public and private sector is recognized by employers and employees alike. Recent efforts by the current Administration to dismantle Executive Order 11246 and by the Justice Department in challenging affirmative action by public and private employers is deeply disturbing.

The Executive Order has been in effect and widely successful for over two decades. Public agencies accepting federal dollars have many obligations mandated by Congress or the Executive for the benefit of the public, including affirmative action. Many of the Nation's largest employers have successful affirmative action programs pursuant to this and other federal laws. Discrimination lawsuits are less frequent now because employers follow guidelines and know where they stand with respect to legal mandates. Removing these guidelines will have an enormous impact on employers and no longer provide a nationwide standard for employment activities. As a result, many employers may find themselves expending moneys on litigation which may exceed that which was expended to ensure compliance with the Executive Order.

While dismantling the Executive Order would be a national tragedy, the Justice Department's litigation proposing to eliminate race and sex-conscious remedies is a national disgrace. At least until recently, there was no question that employers could voluntarily engage in affirmative action programs by affirmatively seeking to integrate their

work force. Involuntary affirmative action measures were mandated by courts only where actual discrimination was found and was a remedy which sought to overcome past discrimination in the work place. The Justice Department's recent litigation and amicus curiae brief participation in Supreme Court lawsuits have sought to totally prohibit voluntary affirmative action measures as well as court-mandated sex or race conscious remedies where discrimination has been found. Should these efforts be successful in the next few years, we will soon see a disintegration of the successes gained in the last twenty years which have resulted in an integrated work force.

Current laws provide mechanisms by which discriminated individuals can seek to obtain a remedy in court or through representation by counsel. But the numbers of disciminated individuals who actually seek counsel and can afford to bring lawsuits is very small compared to the numbers of persons who face discrimination but take no action to remedy the wrong. The most effective means thus far for insuring an employer's work force reflects the race and sex of the local labor force has been affirmative action hiring measures or court-ordered affirmative action remedies. Eliminating these remedies and requiring that each victim of discrimination bring his or her own lawsuit to remedy the discrimination will put these victims at an enormous disadvantage. The natural result will be an increase in individual litigation and a gradual change in the makeup of the labor force across the nation, that is, we will slowly see the labor force becoming both white and male to the exclusion of other groups.

Civil rights issues have historically been a province of the Federal Government for it is nearly impossible to insure a national

standard if states are allowed to determine their own policies. The failure of the Administration and Justice Department to continue past administration's policies is clearly a step backward and has increased hostility to affirmative action programs and their equitable results. We cannot afford to continue this backward trend and any effort by the Committee and Congress to reverse this trend and insure that affirmative action can not only exist but thrive is for the benefit of the Nation as a whole.

Thank you.

Mr. MARTINEZ. Thank you, Ms. Estrada. Next we will hear from Emily Ware. I understand you have taken the place of Mr. Davis——

Ms. WARE. Yes.

STATEMENT OF EMILY WARE, REPRESENTATIVE OF WATTS BRANCH OF THE NAACP

Ms. WARE. Mr. Hawkins and Mr. Chairman, I am Emily Ware, representing the Watts Branch NAACP. My report is going to a very—you can almost say a biased report—because I am speaking of seemingly a forgotten segment of Los Angeles City, which is the Watts Area.

Originally, Watts comprised the area from 92d Street on the north, Imperial Highway on the south, Alameda on the east, and Central Avenue on the west. In that group I would estimate that 80 percent of the youth are unemployed, and out of that group 50 percent are unemployable. By unemployable I mean that they cannot fill out a job application; they can't read directions—those things—what the employer is looking for.

Well, how did we get these deplorable conditions? There are many contributing factors such as the high school drop out. Many students who graduate from high school at best are functional illiterates. These school programs are designed for failure. The academic expectations are usually extremely low, thereby programming our children to fail. Oftentimes in our area we have teachers that drive 50 miles one way; and when they get to school they are tired, they are short with the children. And so in elementary school we are turning the children off.

By the same token I have seen classrooms vacant because they could not get a Caucasian teacher to put in there. You would have black teachers available, but because of the quotas or what have you they said they couldn't put a black teacher in the classroom—they had to have a Caucasian.

Then we had an exodus of all major industries from the area, such as Goodyear, Firestone, and General Motors. Now the persons from these jobs—most of them are still unemployed—a lot of them had manual jobs such as forklifts and things like that. They got their benefits, but now those unemployment benefits have run out.

They have no jobs. Most of them are losing their homes. Some of the kept—they can fill out an application if it is uncomplicated. So they have not been trained to do anything else.

The unavailability of apprenticeship programs for the black youth when she and he finishes trade school—they do not have the money to join the union; they do not have anyone to sponsor them; so consequently, they do not get placed on a job. They go to the school, they absorb a certain amount of training, but they still are not employable.

These youths for the lack of faith and discouragement with the system—when a black youth goes out to look for a job he is told he has to have experience. Where does he get experience if no one will hire him? And then no union or private industry program is available for his job training.

On the JTPA Program I only found 20 youths so far in this program. I surveyed two of our high schools, I did not survey—we have three high schools in our area—I only—I found 20 persons in the program.

Overcrowded living conditions—there are four low income housing units in the Watts area with approximately 2,300 single family dwellings. If you allocate four persons per dwelling you have approximately 10,000 persons in these residing in the housing. This is a conservative estimate.

There are numerous families sharing homes who are not officially recorded because of regulations of the housing authority and the welfare system. These people constitute only a small segment of the Watts population. Many of them are unemployed.

We have a high rate of teenage pregnancies thereby resulting in single families. And out of that group, the ones that would go to work—we have no child care facilities to take care of them.

Then we have an epidemic of drugs. These are few of the things that contribute to our high rate of unemployment.

Some of the things that I feel could be done are we could redesign the educational system to meet the needs of the children—the youth in that community. In other words, we could have training schools where when they leave the schools they would be able to fit in a job slot.

And we need to bring back some industry into the area. An industry that would be willing to take these youth, hire them and train them, then also give them—then we are confronted with—we still have tokenism. A person comes in, opens up a new business or something—they may hire one or two black youth, but most of the time if something opens up out there they bring in all of their employees with them. They just move the job—employees and all—into the community.

So our money is on a roller coaster, it just circulates.

In our office at the NAACP, we receive approximately 25 calls a day about civil rights. Persons that have been on the job a long time—they are being displaced or they are walked over, they bring people in, this person trains them then the next day they are their boss. There is no upward mobility on most of the jobs.

We feel that the administration should further implement and enforce the affirmative actions. And we are finding, though, that when they say minorities it doesn't necessarily mean a black

person. It translates to being a woman, a Hispanic, an Asian, and maybe a token black.

Thank you. I think that is all I will say.

[The prepared statement of Emily Ware follows:]

I am Emily Ware, representing the Watts Branch of the NAACP.

Originally, Watts comprised the area from 92nd Street on the north, Imperial Highway on the south, Alameda on the east, and Central Avenue on the west.

In our area, I would estimate that 80% of the black youth are unemployed, and, out of that group, 50% are unemployable.

How did such deplorable conditions come about? There are many contributing factors, such as:

1) The high rate of school dropout. Many students who manage to graduate from high school are, at best, functional illiterates. The school programs are designed for failure--the academic "expectations" are usually extremely low, thereby, programing our children for failure.

2) The exodus of all major industries from the area, coupled with the constant influx of new residents to the area.

3) The unavailability of apprenticeship programs for the black youth when he or she finishes a trade school.

4) Lack of faith in and discouragement with the system. When a black youth seeks employment, he is told that he has to have experience. Where does he get experience if no one will hire him and there are no union or other private industry programs available for training.

5) Over-crowded living conditions. There are four (4) low-income housing units in the Watts area, with approximately 2,300 single family dwellings. If you allocated four persons per family uint, you would have an approximate of 10,0000 people residing in these four housing developments. This is a conservative estimate: there are numerous family sharing homes who are not officially recorded because of the regulations of the housing authority and welfare system. These people constitute only a small segment of the total Watts pupulation--many of them are unemployed.

6) The high incidence of teenage pregancies resulting in single parent families.

7) Lack of adequate child care facilities for the mothers that want to work.

8) The epidemic use of drugs and other subtance abuses.

These are a few of the things I feel contribute to the high unemployment in the Watts community.

STRATEGIES:

1. Redesign the education system to address the needs of today's technological society.

   a. Establish a technical training institute (i.e., Don Bosco). Not all student are college bound.

2. Bring industry back into the area that would not only hire, but train the youth. In our area, we are still confronted with "tokenism". True, companies hire "minorities", but few are "black", and fewer are from this community. Too often new companies "import" their employees.

   In our office of the NAACP, we receive 25 or more calls a day pertaining to violations of civil rights--specifically in the area of employment.

3. The Administration should further implement and enforce the Affirmative Action legislation. the goals of affirmation action must be clearly defined, otherwise, they are not measurable in terms of progress--thus, they become meaningless. To the average unemployed Black person, affirmative action translates to mean women, Asians, Hispanics, and , now and then, a token Black.

Mr. MARTINEZ. Thank you, Ms. Ware. Next we will hear from Frank Quevedo. Did I get it right?

Mr. QUEVEDO. That is right, Marty.

STATEMENT OF FRANK J. QUEVEDO, CHAIRMAN, COALITION OF SOUTHERN CALIFORNIA PERSONNEL ORGANIZATIONS

Mr. QUEVEDO. Thank you Chairman Martinez, Congressman Hawkins, fellow members of the panel. I am Frank Quevedo, chairman of the Coalition of Southern California Personnel Organizations. The coalition consists of about five organizations here in the Los Angeles basin of individuals who work in employee relations, industrial relations, EEO, and human resources fields.

The coalition strongly believes that affirmative action planning does not abridge the rights of any group of applicants or employees, but is an excellent tool to plan and measure the utilization of all segments of the work force. Numerical goals are not quotas, and do not give preferential treatment to any groups, but are essential to the effective evaluation and measurement of an employer's efforts.

One must wonder why the administration is so adamant in its opposition to the issue of numerical goals, particularly where there are so many other factors to consider. In fact existing rules requiring goals and timetables came about partly because of the concern on the part of the business community that, absent some form of measurement tool, contractors were left to the individual subjective evaluations of compliance personnel in determining whether or not the employer was in compliance with the existing regulations.

We would certainly like to see a reduction in unnecessary paperwork requirements and believe that significant revisions could be made to the regulations and still maintain the integrity of the affirmative action program.

It is interesting to note, as has been testified earlier, that a number of employer associations and individual companies have endorsed the concept of affirmative action and mandatory goals and timetables.

I am reminded, however, of a comment attributed to a prominent member of Congress who recently said, "Trusting the Justice Department to enforce civil rights laws is like hiring a self-professed pyromaniac to guard your fire wood."

Historically, we must recognize that civil rights progress has never been significantly impacted through voluntary means. Social justice has, and will, come about only through the strong enforcement of laws, rules, and regulations. This applied to all areas, including equal employment opportunity, affirmative action, education, housing, voting rights, legal justice system, and job training. This recognition must be a major consideration for you when you are making your policy decisions.

We believe a close examination of the history of equal employment opportunity in this country will reflect that a doctrine emerged from the civil rights movement many years ago that was designed to correct historical inequities. This doctrine initially was founded upon the premise of modifying social behavior and not the balancing of equities under the law.

Obviously, this has changed somewhat over the years, but we cannot lose sight of the fact that discrimination still exists in this society and voluntarism has never proven to be an effective means of correcting the injustices that continue to confront us.

One need only examine plans for progress, which I know Congressman Hawkins is most familiar with, to see what has been the effects of asking employers to voluntarily comply. During the last 10 years, substantial numbers of minorities and women have entered the work force, and are slowly—and I might add very slowly—moving up the corporate ladder. We believe this is clearly supported by several studies mentioned as of today.

One of the studies done by the Potomac Institute confirms the trends that were made reference to earlier, and concluded that in most areas parity in terms of representation of minorities and women is remote.

In review of the results of these studies and the progress that has been achieved through affirmative action programs, the opposition to goals and timetables, in my opinion, borders on the bizarre.

We think it is unfortunate that administration officials, especially the Justice Department and the new Civil Rights Commission, continue to misrepresent affirmative action by stating that the goal setting process results in quotas.

There seems to be an unwillingness on the part of those individuals who oppose affirmative action to make the distinction. The courts have made this distinction.

Further, the implementing regulations for the Executive Order Program clearly state how goals should be used. Section 60–2.30 states:

> The purpose of a contractor's establishment and use of goals is to insure that the affirmative action obligations are met. It is not intended and should not be used to discriminate against any applicant or employee because of their race, color, sex, religion, or national origin.

While the coalition believes that contract compliance has had a significant impact on improving employment opportunities for minorities and women, it should not be automatically assumed that the program will continue to yield similarly significant results in the future without strong enforcement by the Federal Government.

In summary, the coalition believes that the decreased emphasis on affirmative action by this administration is the weakening of its regulations and the elimination of mandatory goals and timetables, in our view, is clearly a weakening of the regulations.

The continuing reduction of OFCCP staff, and the emphasis toward a voluntary approach will all significantly reduce any chance for continued progress in the future. It will certainly represent another step backward in the struggle against employment discrimination. Also, it will, no doubt, have a chilling effect as it already has, in my judgment, and slow down any ongoing programs which have been designed to improve opportunities for minorities and women.

While we would like to believe that affirmative action has become institutionalized in the employer community, the jury is still out in that regard.

Employment discrimination continues to exist in our society. We must not weaken the tools that have been designed to serve the

needs of all of its citizens. The elimination of mandatory goals would represent a major setback and might well mean only the first step in a plan to totally eliminate any form of affirmative action planning, despite some of the speeches that the administration has made.

One commentator put it this way: "Affirmative action without mandatory goals and timetables is like trying to drive a car without wheels. You might be able to start the engine, but you are not going to get very far." We cannot become complacent regarding this issue. We must be proactive, not reactive, to insure that affirmative action remains as a viable tool to assist in achieving our mutual goal of equal employment opportunity. Already there are signs of erosion of this basic concept, but we hope that you and this subcommittee will continue your vigorous support—I know both of you have been terrific in that regard—and leadership in this vital area.

Again, thank you for the opportunity to express our views on this matter. And I would be happy to answer any questions on the testimony we submitted in writing.

Thank you.

[The prepared statement of Frank J. Quevedo follows:]

PREPARED STATEMENT OF FRANK J. QUEVEDO ON BEHALF OF THE COALITION OF SOUTHERN CALIFORNIA PERSONNEL ORGANIZATIONS

Mr. Chairman and members of the Subcommittee, I am Frank Quevedo, Chairman of The Coalition of Southern California Personnel Organizations. I would like to thank you and the Committee for your invitation to express our views on affirmative action and the direction we believe it should take in the future.

The Coalition of Southern California Personnel Organizations (hereafter the "Coalition") was formed in 1983 to enhance opportunities for minorities and women in employment, commerce, education, political access, and other related areas. We hope to accomplish this goal through our coming together and the collective strength of our member organizations here in Southern California whose memberships consist primarily of employee/industrial relations, EEO and human resources professionals. At the present time, the Coalition is composed of the following organizations: Aerospace Industry Equal Opportunity Committee, Affirmative Action Association for Financial Institutions, International Association for Personnel Women (Los Angeles Chapter), Los Angeles Basin Equal Opportunity League, and the Personnel Management Association of Aztlan (Los Angeles-Orange County Chapter). Collectively, these organizations represent approximately 300 employers here in Southern California in a wide variety of industries, which include aerospace/electronics, banking, communications, entertainment, food and beverage, education, insurance, retailing, and utilities.

The Coalition is extremely concerned regarding the Administration's opposition, as well as that of the Justice Department and the U. S. Civil Rights Commission, to the concept of affirmative action, goals and timetables, or any other form of numerical remedy to correct the effects of past discrimination. The impact of formal affirmative action programs cannot be minimized, nor can they be left to voluntary approaches without some form of checks and balances.

(COALITION OF SOUTHERN CALIFORNIA PERSONNEL ORGANIZATIONS)

Your Committee should clearly understand from the outset that the Coalition, and the vast majority of professionals in our member organizations, continue to strongly support the need for affirmative action, the concept of mandatory goals and timetables, and other types of numerical remedies, where appropriate.

The Coalition strongly believes that affirmative action planning does not abridge the rights of any group of employees, but is an excellent tool to plan and measure the utilization of all segments of the workforce. Numerical "goals" are not "quotas", and do not give preferential treatment to any group(s), but are essential to the effective evaluation and measurement of an employer's efforts.

One must wonder why the Administration is so adamant in its opposition to the issue of numerical goals, particularly when there are so many other factors to consider. The concept of numerical goals, in its present form, has been affirmed by the Kennedy, Johnson, Nixon, Ford, and Carter Administrations. It has certainly had bipartisan support from the Presidency since its inception in the late sixties. Further, there has been no overriding effort or concern by the business community to eliminate the numerical goal requirement in affirmative action planning. In fact, the existing rules requiring goals and timetables came about partly because of the concern on the part of the business community that, absent some form of measurement tool, contractors were left to the individual subjective evaluations of Compliance personnel in determining whether or not the employer was in compliance with the existing regulations. We would certainly

like to see a reduction in unnecessary paperwork requirements and believe that significant revisions could be made to the regulations and still maintain the integrity of the program. It is interesting to note that a number of employer associations and individual companies have endorsed the concept of affirmative action and mandatory goals and timetables.

Historically, we must recognize that civil rights progress has never been significantly impacted through voluntary means. Social justice has, and will, come about only through strong enforcement of laws, rules, and regulations. This applied to all areas, including equal employment opportunity, affirmative action, education, housing, voting rights, the legal justice system, and job training. This recognition must be a major consideration for you when making your policy decisions.

We believe a close examination of the history of equal employment opportunity in this country will reflect that a doctrine emerged from the civil rights movement many years ago that was designed to correct historical inequities. This doctrine initially was founded upon the premise of modifying social behavior and not the balancing of legal rights. Obviously, this theory has changed somewhat over the years, but we cannot lose sight of the fact that discrimination still exists in this society and voluntarism has never proven to be an effective means of correcting the injustices that continue to plague us.

We must be realistic and clearly understand how we have reached this point in time. As we have stated earlier, the voluntary approach to providing equal employment opportunities has not been effective.

(COALITION OF SOUTHERN CALIFORNIA PERSONNEL ORGANIZATIONS)

It is also clear that legal remedies by themselves have not been totally effective either in bringing about equal opportunity. We can go back to The Civil Rights Act of 1866, to Executive Order 8805 signed in 1941 by President Franklin Delano Roosevelt to prevent job discrimination by defense contractors, to 1946 when states began enacting fair employment laws, and to the early 1970's when Executive Order 11246 became a contractor requirement for those employers who wished to do business with the government. In spite of these early efforts, little progress was achieved in providing equal opportunity for minorities and women. Not until a systematic approach to the utilization of all segments of our workforce was developed through formal affirmative action did we begin to see progress.

During the last ten years, substantial numbers of minorities and women have entered the workforce, and are slowly moving up the corporate ladder. We believe this is clearly supported by several studies completed during the last few years. One study Conducted for the Department of Labor by Jonathan Leonard of the University of California at Berkeley concluded that "Affirmative action mandated under Executive Order 11246 has been effective in promoting employment opportunities for minorities and women". Another study, conducted by J. Griffen Crump, who was a special assistant to the OFCCP Director, concluded that federal contractors experienced a far greater growth in the percentage of the jobs held by minorities and women than have non-contractor establishments. A study completed by the Potomac Institute confirmed basically the same trends.

(COALITION OF SOUTHERN CALIFORNIA PERSONNEL ORGANIZATIONS)

In view of the results of these studies and the progress that has been achieved through affirmative action programs, the opposition to goals and timetables seems to be somewhat inconsistent and puzzling. As you are well aware, the concept of goals and timetables is not new to the private sector. Financial goals, sales goals, production goals, marketing goals, employment goals, are all used as a measurement tool in the business community. Why not use the same business procedure to measure in a more definitive manner the representation/composition of the workforce? That would certainly appear to be consistent with good, sound business practices.

It should be made clear that we are talking about "goals" and not inflexible, rigid "quotas". The goal-setting process does not provide preferential treatment for any particular group of employees. It is a specific plan that takes into consideration the availability of all qualified candidates, anticipated expansion, reduction, and turnover of the workforce, along with a timetable for achieving the objectives that have been set forth.

We think it is unfortunate that Administration officials, the Justice Department, and the Civil Rights Commission continue to misrepresent affirmative action by stating that the goal-setting process results in "quotas". There seems to be an unwillingness on the part of those individuals who oppose affirmative action to make the distinction. The courts have made this distinction. Further, the implementing regulations for Executive Order 11246 clearly state how goals should be used. Section 60-2.30 states:

(COALITION OF SOUTHERN CALIFORNIA PERSONNEL ORGANIZATIONS)

> "The purpose of a contractor's establishment and use of goals is to insure that the affirmative action obligations are met. It is not intended and should not be used to discriminate against any applicant or employee because of their race, color, sex, religion, or national origin."

There is a clear difference between the goal-setting process in affirmative action planning and any numerical remedies established by a court or administrative agency after a finding of discrimination. However, there appears to be an unwillingness by many people to articulate that difference and keep this subject in its proper perspective. There almost appears to be an obsession by a large segment of our society that affirmative action is taking away from them something they think is rightfully theirs. Many still believe that any minority or woman hired or promoted into any type of responsible position is probably unqualified and has gained this position only because of some "quota" that has been imposed on the employer by the federal government. This continuing misrepresentation and preococupation with "quotas" has certainly distracted us from the real job yet to be accomplished.

While the Coalition believes that contract compliance has had a significant impact on improving the employment opportunities for minorities and women, it should not be automatically assumed that the program will continue to yield similarly significant results in the future without strong enforcement efforts by the government.

In summary, the Coalition believes that the decreased emphasis on affirmative action by the Administration, the weakening of its regulations (and the elimination of mandatory goals and timetables is clearly a weakening of the regulations), the reduction of OFCCP staff, and the

emphasis toward a voluntary approach will all significantly reduce any chance for continued progress in the future. It will certainly represent another step backward in our struggle against employment discrimination. Also, it will, no doubt, have a chilling effect on the business community and slow down any ongoing programs which have been designed to improve opportunities for minorities and women. While we would like to believe that affirmative action has become institutionalized in the employer community, we are not sure this has happened.

Employment discrimination continues to exist in our society. We must not weaken the tools that have been designed to serve the needs of all citizens. The elimination of mandatory goals would represent a major setback in our continuing struggle, and could well represent only the first step in a plan to totally eliminate any form of affirmative action planning.

We cannot become complacent regarding this issue. We must be proactive, rather than reactive, to insure that affirmative action remains as a viable tool to assist in achieving our mutual goal of equal employment opportunity. Already there are signs of erosion of this basic concept, but we hope you and this Subcommittee will continue your active support and leadership in this vital area.

Again, thank you for the opportunity to express our views on this matter. I would certainly be willing to answer any questions you may have regarding my comments.

Mr. MARTINEZ. Thank you, Frank. Tommy, would you tell us—the name of the group is Young Saints.

Mr. ROBERTS. Yes, sir.

Mr. MARTINEZ. Would you tell us a little bit about that.

STATEMENT OF TOMMY ROBERTS, YOUNG SAINTS

Mr. ROBERTS. I happen to represent, with W.C. Handy—Eubie Blake—a troupe from New York going to the White House for Eisenhower. Which gives you a little background on where the Young Saints came from. I introduced, "Let Us Break Bread Together" in the White House with Mrs. Roosevelt. The whole world is singing my song now.

I am involved with gangs. I don't know whether you saw the news on the last program you had here last week where we were discussing the problems of the gangs. And the Young Saints—we are very fortunate—we've got over 250 teaching in the Los Angeles school system. We have the first black person and woman who has the status of a three-star general, Clair Freeman, in the Pentagon now. We have Roger Saint who has the band at Caesar's Palace.

I could go on and on. My students are all over the world. Mental people that had mental problems that are now teachers and doing beautiful things coming through the Young Saints Program.

But we are back at the same problem. I have been teaching nonviolence; working, hoping and helping persons that are nonviolent for the last 28 years or so. But I keep hearing the same thing over and over again.

It looks like the system is demanding nonviolence to get attention to help the disadvantaged that have to boot strap themselves up to the level of the Young Saints to find the key to go across that door across the freeway in the system of becoming good citizens. Gang members telling me over and over again,

> I go to school. I am in high school, and the books are written for junior high school. They ask me why I am a dropout when I can make $1,000 a day selling dope, and they want me to work for Big Mac or Kentucky for $3.30 an hour. That don't make sense.

And we have to explain, "You are talking about the short range goal. You are not looking at the long range goal."

So we use the tools of telecommunications—performing acts, singing and dancing, giving them a chance to have a good time—to hold their attention span so that they can learn to speak the language and become good citizens. The bottomline is—we teach reading, writing and arithmetic, but first respect.

Here we are—I am listening to this man from the Governor's office—and he said he can't identify the disadvantaged—the disenchanted. Well, I say to that man that was sitting up here, they are in jail. That is where you can find and document the disenchanted if you wish to look for them; because they can't get a job—or won't nobody listen to them to get a job.

Again, I want to say I have over the years promoted and worked with any organization that would help promote nonviolence. But the words over and over wherever I go—they are saying, "That is the only way to get a change; do you know a better way?" Please help us in the grass roots find and use this better way, because the

momentum is building and it is going to explode whether you like it or not.

Thank you for listening.

Mr. MARTINEZ. Thank you, Mr. Roberts. I have one question. Frank, who do you work for—what is the company you work for?

Mr. QUEVEDO. I work for Beatrice Grocery group in Orange County.

Mr. MARTINEZ. Is it a corporation?

Mr. QUEVEDO. Yes.

Mr. MARTINEZ. Does that corporation support your remarks and either associate with your remarks or——

Mr. QUEVEDO. I am speaking on behalf of the Coalition.

I am courageous enough to not be concerned about that aspect of it.

Mr. MARTINEZ. Are they—they are not in support then?

Mr. QUEVEDO. No, no, I would not say they are not in support. They have a long history of being very active in the affirmative action area from the top on down. The chairman of the board of the corporation annually signs a letter and holds the senior management responsible for their affirmative action goals and timetables.

Mr. MARTINEZ. In general they support your position.

Mr. QUEVEDO. I'm not so sure they would sign on for my criticisms, specifically of the administration——

Mr. MARTINEZ. We can understand that.

Mr. QUEVEDO [continuing]. But I think in terms of the views relative to the importance of affirmative action—the progress that has been made—I think the documentation can speak for itself. And I know that both you and Congressman Hawkins are very familiar with, in effect, what had been the results of affirmative action over the years. So I think that to that extent they would agree.

But I think my cynicism about this administration—and I would probably have testified the same about the previous administration—I may have been less skeptical but I—yes, they would sign on to my views relative to the importance of affirmative action and issue of goals and timetables.

Mr. MARTINEZ. Yeah. And this is not meant in a derogatory way, but so many times because of our partisan affiliation we tend to be less critical when we should be more critical. And—like with you—I wouldn't say that the total blame would lie with the present administration, although the present administration has exaggerated it in almost everything they do.

And the greatest example of that is the position alluded to earlier of Brad Reynolds and Edwin Meese. Left to a voluntary basis, we have seen that it has not changed the situation at all. But where it has been fixed in law that there must be some movement in that direction, it has changed the attitude and has made many realize what they have been denying themselves for so many years—a pool of talent.

So, you know, I can understand that reason that you make and I say that no one administration is responsible; all administrations have had a part. Some have even tried to—if you go back to the fact that Kennedy signed a voluntary—he tried to move into that

area on a voluntary basis—it wasn't that successful until 1968 they started to put some teeth in it.

You have to say that even at that time it probably should have been a little stronger action. So you know, you can be critical of each. And I think that just because we are a part of partisan politics we do not have to reserve our criticisms just for the other side.

Mr. QUEVEDO. I think that is true. I think that in 1988, assuming there is a change in the administration, I hope that we don't have to have a hearing of this type—of this kind—at that time. But if we do, I will be more than happy to make the trip into Los Angeles and into Congressman Hawkins' space turf, and testify once again of the views of the Coalition relative—if, in fact, a different administration chooses to retreat. But I would also say, being an avid reader of the New York Times—you pick up the New York Times almost any day and read the headlines and speeches that are given by at least two individuals in the administration, and you need not go any further than the headlines—making reference to affirmative action goals as racist, suggesting that the programs that we hold dearly to our hearts—those who've testified today—in fact it is I think I recall Meese making a remark like it was going back to slavery—I mean you talk about somebody pouring fuel on the fire—and his attacks on the Supreme Court are of themselves—is very negative.

But all you have to do is look at what kind of rhetoric is coming out of the administration. I don't say everyone in the administration. I took a leave of absence to work in the administration back in 1982 and there are some very good people, and I know that some of them have testified before you and Congressman Hawkins. I know you have differences of opinion about specific proposals coming out—they are not all vicious, bad, mean, evil people. But I do think there is a clearly document—you can clearly document the efforts by some in the current Justice Department to turn back the clock.

And I think some would argue, and would argue effectively, to turn the clock back to pre-Civil War days.

Mr. HAWKINS. Isn't it true—I think the chairman is being a little too kind——

Mr. QUEVEDO. I was trying to be diplomatic——

Mr. HAWKINS. To compare the Kennedy administration with this administration is almost ludicrous. While Mr. Kennedy probably took some feeble steps to advance the cause of civil rights, he certainly did not retreat. And I don't think that any Republican—let's get partisan here—no Republican administration before this one has retreated on affirmative action. Each, I think, has contributed something positive. They might not have gone as far as we wanted them to go, but under President Nixon certainly there was some progress made. There was certainly no weakening of affirmative action under the Eisenhower administration either.

This is the first administration since the concept of affirmative action or title VII was enacted, that has actually retreated from or undermined the effective enforcement of the law itself. I suggest that not complying with the law is a form of lawlessness. I don't think this has been the case with any other administration.

Mr. QUEVEDO. I would absolutely agree, and I would also point out that it is a rare instance where the U.S. Supreme Court has to retain a lawyer to retain its interests—as it did in the Bob Jones cases—has to retain an outside lawyer to represent the position taken historically by every administration in my lifetime; and I am a little bit younger than Congressman Hawkins.

But to me—that is just incredible to me—absolutely incredible to me. I also know for a fact that the position taken by the current administration relative to numerical remedies, which had traditionally been supported by previous solicitors in 37 separate cases before the U.S. Supreme Court, this is the first time they have ever taken a position to reverse that.

So, I think, maybe we all—or maybe we have just gotten tired of the fight to some extent. But I think this administration is the first one to consider—certainly the first one to consider revoking the Executive order. You know, regulatory reform and things of that nature don't bother me. I think that there is a way to get at addressing some of the legitimate concerns—a number of folk have—on all sides of the issue.

It isn't just the business community. I am sure that Carmen Estrada and Ms. Bustillos would, in fact, argue that the regulations should be made tougher, not weaker. That there shouldn't be regulations for relief, and we might disagree about what specifically be included in any kind of relief.

I hope, quite frankly, that's the option that is adopted by the administration—that the Department of Labor, in fact, take a look at its regulations. The Carter administration made several efforts to do that. Unfortunately, in my judgment, they waited too long at the end—got themselves caught in a situation where they issued the regulations and allowed the new administration to pull the regulations.

I did not like all of those regulations. There were aspects of those proposed regulations that troubled me greatly, and they were issued by a Democratic administration. But they did not intend to tamper with the integrity of the program, with the the integrity of the regulations, did not want to rollback the clock, did not want to eliminate mandatory goals and timetables.

Mr. MARTINEZ. You are absolutely right, and I don't think any administration has ever had their top key people calling local EOCC offices and instructing them not to enforce affirmative action plans or take cases they would normally take.

You know, I did not want to be too inflammatory, but you made the statement and I think—I didn't mean to insinuate or compare Kennedy with this administration. That is really, I would think, bizarre, too. But it is simply to point out that we are even—he did not take as strong an action as maybe some of us would have liked. It is true what Mr. Hawkins said, at least they didn't retreat and this administration is retreating. And that is why I said earlier, he is inflaming, exaggerating the situations, causing an uproar that is really unprecedented.

Worse than that, you mentioned in your statement that they were not all bad in the administration, I would agree with you. They have had some very good people that try to be objective. Margaret Heckler is one of them, but look what happened.

I am afraid that even the Secretary of Labor, Mr. Brock, may not be long for this world, because with wanting to be a team player, without wanting to offend his bosses, he has to some degree supported affirmative action. And, I think, if you really look deep into his heart, he supports it wholeheartedly. But he is being handcuffed to a certain degree.

So I think we have to fight and we have to fight hard not to allow what we anticipate is going to happen. Once the summit situation dies down, I am afraid that the President will act on Executive Order 11246 and not in a positive way, in a very negative way.

I have one question for you, Mr. Roberts, because from what you were saying I gather that you feel somehow that we need to come up with a long-term solution to this problem that is festering in the community with the young people; and job training and job opportunity is one of those things that I think you were suggesting.

You seemed to suggest, that this kind of training on a long-range basis was especially important or maybe even more important to disadvantaged youth. And I agree with you. I would like to know if you have come up with some kind of an idea or suggestion as to what Congress should do or might do?

Mr. ROBERTS. Yeah, it's been bothering me. But December 8 at 7:30 on NBC they are doing a story on me, the Young Saints and the gangs and what I am involved in. And I think I'm going to get with the Congressman either here or back in Washington with some of my ideas and plans. We have been fortunate because it has been a family affair to survive for 30 years, training, giving a free training program to the community.

Thanks, yes, for a little help from our friends the mayor's office, Councilman Lindsay, Dotty Rolf [sic], we have been able to bridge the gap.

But I think I'm going to have to get with somebody a little bigger to help me do a better job.

Thank you.

Mr. MARTINEZ. Thank you, Mr. Roberts. Yes, sir.

Mr. SPEARS. I have a comment to make. My name is Thomas Spears from USC.

Mr. MARTINEZ. Thomas Spears.

Mr. SPEARS. Yes, sir.

Mr. MARTINEZ. Would you come up to the microphone here.

Mr. SPEARS. Sure. Thank you for giving me a few brief moments.

Mr. MARTINEZ. Would you identify yourself again.

STATEMENT OF THOMAS SPEARS, UNIVERSITY OF SOUTHERN CALIFORNIA MINORITIES FOR MEDICINE

Mr. SPEARS. My name is Thomas Spears and I am from the University of Southern California Minorities for Medicine. I would like to address—basically, your question here is the simple fact that a lot of agencies, especially here in California, don't know about each other. I think basically we need a catalog or something of that sort. It would categorize all the available programs that are available for the youth.

I work very extensively with gangs. I work in the south central area, and they just don't know what is going on. I think, for all

practical purposes, if we could just have an outline of who to contact, that would be a starting point—a very practical starting point for a lot of young people in our area.

Mr. MARTINEZ. Did you hear the testimony earlier of Stanley Sanders?

Mr. SPEARS. Yes, sir, I did.

Mr. MARTINEZ. And you understand that he is trying to do that exact thing. It might be a good idea to get in touch with him. The staff can provide you with the address and telephone number that you might have it.

Mr. SPEARS. Thanks a lot. Thank you, sir.

Mr. HAWKINS. Tommy—is it Spears?

Mr. SPEARS. Yes, sir.

Mr. HAWKINS. You are a student at USC?

Mr. SPEARS. Yes, sir; I am.

Mr. HAWKINS. Do you know of any program at USC that involves addressing the problems of gangs or some of the other problems affecting our community?

Mr. SPEARS. Unfortunately, being a minority student at USC I know of the Joint Education Program, entitled JEP. That program basically goes to magnet schools in the outlying community; and it allows an opportunity for USC students to interact with community individuals.

At present that is the only program besides the one that I am affiliated with at this time that I know of.

Mr. HAWKINS. That works in the community itself?

Mr. SPEARS. Basically, yes. How functional it is I don't know.

Mr. HAWKINS. Let me explain why I asked the question. I find a lot—and this is not too well documented—but I think it comes from empirical experience—the community does not have a very high regard for the university as one would expect.

Mr. SPEARS. This is true, it is known as the White Island.

Mr. HAWKINS. And a part of it is that they feel that the university itself is building a wall around itself——

Mr. SPEARS. This is true.

Mr. HAWKINS [continuing]. In a sense to protect itself from the community and not to have any outreach activities into the community in order to help the community of which it is a part. The university received last year approximately $50 million in Federal grants. So, they have been benefited greatly. The question is raised, what do they return to the community?

And that is why I felt that you might be in a position to advise us, from your experience, whether or not you think it is serving the community as a university should do in terms of an outreach program, whether it is in gerontology, or in relationship to the studies it has been given Federal money to engage in research, in terms of law enforcement, gang suppression, et cetera.

Do you honestly, as a student there, feel that they are doing what should be done in return for its location.

Mr. SPEARS. In addressing your question, now let's remember that there are always improvements that can be made in any program—one program that runs across my mind in the Upward Bound Program. I am pretty sure it is a federally funded program

also in which USC addresses specific issues that are in the community.

I think they are doing as well as they can do at the moment. With the present administration—with the politics that go on at this school—I think they are doing the best they can for right now. There are a lot of improvements that do need to be made. It is very possible that I can interact with a lot of other individuals that I know to get some things in writing for you so that you will have a basis to look at maybe what is going on with those Federal funds and how it is basically interacting with the community.

I do feel that a lot of times minority students that attend the University of Southern California are terribly isolated in that they do commute back and forth—by foot in a lot of cases—and they go from one world to another. It is a big transition, there is no question about that, psychologically and economically.

I think it may also be to your benefit, too, to maybe take a tour and look at the University of Southern California and the other outlying institutions to be able to assess for yourself what good is really being done in reference to the community.

Mr. HAWKINS. I think the committee would be interested in any views you may express in terms of what they may be doing, because we do not want to be unfair. And if there are ways in which that communication with the community can be improved, then obviously we are anxious to do it. I think if you address your views to us, giving specifics to the extent you can, than probably we can improve on the situation.

Mr. SPEARS. Excellent. I will be more than glad to do so.

Mr. HAWKINS. Thank you.

Mr. MARTINEZ. Let me say that we allow the record to stay open to receive written testimony for 2 weeks and we would do that in this case. But let me tell you that should you not be able to get it within 2 weeks we still would receive the information you provide us with and use it.

Mr. SPEARS. Excellent, thank you very much. I just have one other comment and that is that in view of all the educational cuts that are going on, it is becoming increasingly harder and harder for minority students to go on to higher education. A lot of you are addressing those specific issues that have reference to do with individuals that are in the beginning processes of their education, as far as job training and things of that nature.

I think that, in a lot of cases, it would help if you could address the issue also that the student has to work his way through school, does not get financial aid—say if he makes above $6,000 a year working at McDonalds or Jack-in-the-Box and attends school—he is not always eligible for financial aid. And that is in reference to the cuts that have taken place in the last year or so.

Mr. HAWKINS. If some of the additional cuts, some of the pending proposals go through under this administration—because we are now involved in the extension of the Higher Education Act, and the emphasis there is on grants, for example, as opposed to loans, which helps minority students and low-income students. That is where we are trying to put the emphasis. However, under the Gramm-Rudman proposal, which is likely to be passed in some form, there will be the possibility of even deeper cuts in that pro-

gram. It is possible that if the Higher Education Act gets through, that the President may veto it because it helps to do what you say should be done; but it is too liberal maybe for the administration. I just point that out because I think there is a lot of information—students should know that we have had a rather unusual situation; and with some students in some of the campuses across this country have been quite reactionary themselves and are not involved in trying to protect the financing of students who must depend on grants. And this is, I think, unthinkable that with—certainly if they weren't intelligent—why we don't hear from them or why they take a very ultraconservative line is quite beyond me. I don't know why, but I think that you as a student at USC could help to correct that situation as well.

Mr. SPEARS. You also have to remember that a lot of reactionary processes do start from the universities.

Mr. HAWKINS. Thank you, Mr. Spears.

Mr. MARTINEZ. Ms. Ware.

Ms. WARE. I just wanted to comment on—he mentioned the fact of Upward Bound—that was a program we started in Watts, and it has gone every place but it doesn't seem to be working in Watts right now. Out of about 15 students that I knew last year that were in college or in a trade tech or something like this—because of financial problems—not being able to go to school—they are out; and they can't find a job.

One young man was telling me the other day he leaves home at 6 a.m to go to Long Beach State College. It costs him $10 a week to go. He has a financial grant of $3,000. How long can we keep this young man in—there are several of them, they are trying to go, their mothers are welfare recipients and things like this, there are many other children in the family. So, soon, he was saying he was going to have to go look for a job. Even the job that he had at Jack-in-the-Box was closed to him this year.

And we have a lot of this. They will give to the students a job 1 year, then the next year they feel that they have to rotate the job to someone else and that means the student is out in the cold. And that puts another person unemployed. He doesn't have skill; he doesn't have a trade; and so we have a constant turnover.

And when they do get a job, or when they go to apply for a job we are getting the thing now, "Are you bilingual?" Even if most of the people that either trade there or bank there or bank there or something like that—if you go to the bank now in our neighborhood, one of things they will ask you, "Are you bilingual?" No; if they are not bilingual they don't get the job. So, where do we go?

Mr. MARTINEZ. Well, we agree there. There are those of us in Congress who have fought hard to expand the grants and increase the moneys; but there are those in Congress that believe the only reason the Federal Government exists at all is to provide for defense and to build MX missiles, proliferate nuclear war, and not provide for education.

I will never forget the day that Mr. Hawkins was presenting the Defense Education Act on the floor, and he used two people in Congress as examples of this accusation of being big spenders. I think Mr. Dannemeyer was one and Mr. Dellums was the other. Mr. Dellums was essentially always voting for social programs, domestic

programs, educational programs—not for defense—big defense items. And Mr. Dannemeyer, on the other hand, the appropriations that he voted for far, far exceeded those of Mr. Dellums—were simply for defense, only for defense; he voted for none of the educational, social, or domestic programs.

The next day Mr. Dannemeyer took to defend himself from the accusation of really being the big spender, and not Mr. Dellums. He said that: "The only reason for the Federal Government to exist at all was to provide for the common defense." And he substantiated that by saying, "The Constitution says so." Well, what he was really referring to was the Preamble to the Constitution. But if he really looked at the Preamble to the Constitution there are six reasons why the Constitution was implemented; providing for the common defense was only one of them.

And I would ask Mr. Dannemeyer or any of my other colleagues that don't believe in providing sufficient funds for education, "Where would they be without the education system that got them where they are?"

Anyway, are there any other questions?

Mr. HAWKINS. No; it has been an excellent panel.

Mr. MARTINEZ. Very good. We appreciate your being here, and thank you for your testimony. With that we adjourn.

[Whereupon, at 12:54 p.m., the hearing was adjourned.]

○